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Money Laundering Policy Implementation Guide

**(U) Money Laundering
(U) Policy Implementation Guide**



(U) Federal Bureau of Investigation

(U) Criminal Investigative Division

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Money Laundering Policy Implementation Guide

GENERAL INFORMATION: Questions or comments pertaining to this policy implementation guide can be directed to:

Federal Bureau of Investigation (FBIHQ)/Criminal Division

Financial Crimes Section, Asset Forfeiture/Money Laundering Unit

Division Point of Contact: Unit Chief

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(NOTE: This document supersedes The Money Laundering Manual dated 4/15/2007; EC 27B-HQ-C1158008, Serial: 333 ("Money Laundering Program Matters Money Laundering Investigations Use of Cooperating Witnesses") and EC 272B-HQ-C1158008, Serial: 357 ("Money Laundering Program Matters Money Laundering Investigations – Transactions in Foreign Countries"))

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1. (U) Scope

(U) Purpose: This policy implementation guide (PG) provides Federal Bureau of Investigation (FBI) employees with an understanding of money laundering matters, as well as guidance on policies and procedures relating to money laundering investigations. This PG ensures that assessments and predicated investigations comply with the *Attorney General's Guidelines for Domestic FBI Investigations* (AGG-Dom), dated September 29, 2008, and the FBI's *Domestic Investigations and Operations Guide* (DIOG), dated December 16, 2008, or as revised. With knowledge and awareness, the FBI can more effectively investigate money laundering.

(U) Background: The Asset Forfeiture/Money Laundering Unit (AF/MLU), Financial Crimes Section (FCS) prepared this PG. The Department of Justice (DOJ) defines money laundering as the process by which criminals conceal or disguise the proceeds of their crimes or convert those proceeds into goods and services. Concealment, in any form, is money laundering. Simply put, money laundering is any knowing use of the proceeds of criminal activity. Money laundering occurs whenever crime is principally motivated by financial reward. Criminals naturally conceal or disguise their ill-received gains to avoid detection.

(U) In November 2001, Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, also known as the USA PATRIOT Act (hereafter the Act). The Act included various provisions to deter money laundering. These provisions authorized new tools for criminal investigators and increased criminal penalties. This PG describes these provisions and outlines the procedures needed to effectively investigate money laundering matters.

(U) Intended Audience: All FBI employees, task force officers (TFO), contract employees, and other personnel who conduct money laundering investigations or provide financial or intelligence-based case support on such investigations will use this PG as a reference.

(U) Link to Corporate Policy Directive 0359D

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2. (U) Roles and Functional Responsibilities

2.1. (U) Asset Forfeiture and Money Laundering Section (AFMLS)

(U) The Asset Forfeiture and Money Laundering Section (AFMLS) of the DOJ provides centralized management for DOJ's Asset Forfeiture Program and directs DOJ's components in prosecuting money laundering investigations. The AFMLS initiates, coordinates, and reviews legislative and policy proposals affecting the Asset Forfeiture Program and money laundering enforcement agencies.

(U) The AFMLS oversees asset forfeiture; money laundering training; and conducts seminars for federal prosecutors, investigating agents, and law enforcement personnel. It also produces legal publications and training materials to enhance its legal support functions. The AFMLS Intranet site is available on the DOJ Intranet at <http://dojnet.doj.gov/criminal/afoml/default.htm>.

2.2. (U) United States Attorneys (USA)

(U) Money laundering cases can be prosecuted by the United States Attorney's Office (USAO) in any district where a financial transaction in furtherance of money laundering has taken place. Some money laundering cases are prosecuted directly by the AFMLS. Agents who have evidence that a money laundering transaction has occurred must consult with a prosecutor to determine if sufficient proof exists to establish all of the elements required to support a money laundering charge. In order to do so, the agent will have to establish the following:

1. (U) The nature of the transaction: Money must go between people, bank accounts, etc.
2. (U) The source of the funds involved in the transaction: There must be proof that the money came from a crime that is among the list of money laundering predicates, also known as specified unlawful activities (SUA).
3. (U) The subject's knowledge: There must be proof, which is often circumstantial, that the subject knew the funds were derived from a felony. It is not necessary to prove that the subject knew anything about the specific crime that the funds actually came from.

(U) To establish a violation of Title 18 United States Code (U.S.C.) Section (§) 1956, there must be proof that the subject intended to either conceal the funds or promote the SUA. To establish a violation of 18 U.S.C. § 1957, there must be proof that the subject transferred an amount greater than \$10,000 by or through a financial institution. These charges are not mutually exclusive and can be charged together where the elements of both violations are satisfied.

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(U) A USA must approve an indictment. Typically, the USA's unit chief overseeing money laundering prosecutions can approve a complaint charging money laundering. The indictment and the complaint will both serve as charging instruments and either may be used as the basis for an arrest warrant on money laundering charges.

(U) Furthermore, approval of a USA or the DOJ Criminal Division is required for an FBI agent or employee to conduct money laundering transactions involving an aggregate amount exceeding \$1 million, unless it is part of a Group I Undercover Operation (UCO). See AGG-Dom, Section V(C) (3)(f).

2.3. (U) FBI's Asset Forfeiture/Money Laundering Unit

(U) The mission of the AF/MLU is to promote the strategic use of asset forfeiture and to ensure that field offices employ money laundering statutes in all appropriate investigations. The asset forfeiture and money laundering investigative processes identify, target, and disrupt individuals and criminal and terrorist organizations engaged in fraud schemes that target our Nation's financial infrastructure. The AF/MLU carries out its mission by:

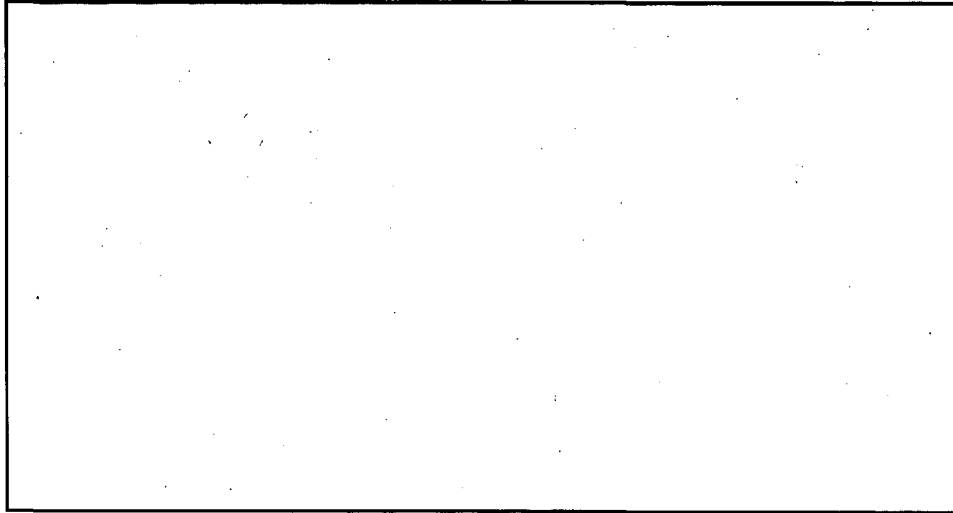
- (U) Providing support and guidance to field offices on asset forfeiture and money laundering matters.
- (U) Facilitating proactive predicated investigations by consulting on the development of money laundering UCOs and by obtaining relevant authorizations.
- (U) Providing training to FBI personnel on the application of asset forfeiture, money laundering and identity theft statutes, money laundering methods, and investigative methods.
- (U) Participating in multi-agency working groups to develop strategic solutions to various crime problems.
- (U) Providing resources, when needed, to support asset identification and financial analysis for investigations deemed to have significant forfeiture potential.
- (U) Developing initiatives aimed at facilitating field investigations and addressing crime problems through legislative and regulatory channels.

(U) Agents in the field are to provide regular updates to the AF/MLU on money laundering investigations and prosecutions. This enables the AF/MLU to detect new trends in money laundering so that this information can be collected and disseminated to the field through the AF/MLU Intranet site and during training.

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2.5. (U) Financial Action Task Force (FATF)

(U) The FATF was established at the 1989 G-7 Summit in Paris. The FATF is an intergovernmental policy-making body whose purpose is the development and promotion of national and international laws and regulations to combat money laundering and terrorist financing.

(U) As of October 2009, 34 countries, including the United States, were FATF members. Member countries agree to comply with FATF's "Forty Recommendations" (anti-money laundering [AML] measures) and to implement the FATF's recommendations to combat money laundering. The Forty Recommendations address the criminal justice system and law enforcement, the financial system and its regulation, and international cooperation.

(U) In 1996 and 2003, the FATF revised the Forty Recommendations to incorporate changes in money laundering trends and to anticipate potential future threats. The FATF has also elaborated on various interpretative notes designed to clarify the application of specific recommendations and to provide additional guidance (see Appendix B of this PG for a complete list of the Forty Recommendations).

(U) In December 2009, the FATF met in Washington, D.C., to discuss potential revisions to the Forty Recommendations. Proposals geared towards increased international cooperation were recommended and formal drafts of these proposals will be submitted at future FATF meetings.

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3. (U) Policies

3.1. (U) Predicated Investigative Methods and Approval Levels

(U) The intricacies of predicated money laundering investigations, along with their possible international impact and potential for sensitive issues, necessitate different levels of review and approval, depending upon the type of investigative methods contemplated. These investigative methods can be broken down into three primary categories:

(1) traditional/overt investigations, (2) money laundering transactions that involve the use of an undercover employee (UCE), and (3) money laundering transactions that involve the use of confidential human sources (CHS).

3.1.1. (U) Traditional or Overt Money Laundering Investigations

(U) Traditional or overt money laundering (predicated) investigations address criminal activity and the laundering of the proceeds of that activity. These traditional, overt investigations have proven to be very successful, particularly in white collar crime (WCC) cases where a group or an individual engages in some SUA and launders the proceeds of that activity. A traditional investigation may not use the undercover method to conduct transactions.

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3.1.2. (U) Money Laundering Transactions That Involve the Use of an Undercover Employee

(U) Money laundering by an undercover FBI employee, or an employee of another federal, state, or local law enforcement agency acting at the direction of the FBI, is a "sensitive circumstance" under the *Attorney General's Guidelines on FBI Undercover Operations* (AGG-UCO) when the aggregate amount of money laundering exceeds \$1 million dollars, regardless of how many separate instances of money laundering occur. See Attorney General (AG) Order No. 2955-2008, Section 4 (03/05/2008).

(U) The Assistant Director in Charge (ADIC) or Special Agent in Charge (SAC) of a field office can approve an undercover operation in which the UCE or CHS conducts money laundering transactions and the aggregate amount does not exceed \$1 million dollars. See the *Field Guide for Undercover and Sensitive Operations* (FGUSO).

(U) Under AG Order No. 2955-2008, money laundering by a UCE in a series of more than five undercover activities constitutes a UCO. If the aggregate amount laundered does not exceed \$1 million dollars, the operation may be approved by an SAC as a Group II UCO. An undercover contact by a UCE includes any meetings, contacts, or conversations that could be considered evidentiary, whether conducted by oral, written, wire, or electronic means. Chance meetings or casual contacts are not generally

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considered evidentiary, but could become evidentiary if there were repeated meetings or unplanned discussions.

(U) When the aggregate laundering of money exceeds \$1 million, the activity is sensitive, and requires Group I UCO designation and approval from the Criminal Undercover Operations Review Committee (CUORC) and the Assistant Director (AD), Criminal Investigative Division (CID). The \$1 million dollar cap applies to the case, not to each subject of the investigation.

(U) These rules apply regardless of whether the UCE is injecting government funds into a criminal money laundering operation or the UCE is laundering illicit funds for the subjects of the investigation.

(U) When any money laundering UCO receives a Group I UCO designation and has been approved by the AD of CID, individual transactions may be approved by the SAC up to the maximum cap approved by the AD, CID.

3.1.3. (U) Investigations That Involve the Use of CHSs

(U)

[REDACTED] provided the cumulative amount of the transactions does not exceed \$1 million dollars. See AGG-Dom, Section V(C)(3)(f), CHSPM, Section 10.2. Furthermore, delegation of SAC authority may be made to an Assistant Special Agent in Charge (ASAC), pursuant to the DIOG ("Supervisory Roles and Responsibilities"). In addition to the approvals stated in 3.1.2, use of a CHS to engage in money laundering transactions over \$1 million dollars requires approval from a United States Attorney or the DOJ Criminal Division.

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(U) Operational FBI Headquarters (FBIHQ) unit involvement is necessary to coordinate individual investigations worldwide and eliminate any possibility that the FBI and/or other federal law enforcement agencies are unwittingly laundering money for one another. Accordingly, notification of planned money laundering activity by a CHS must be provided to the AF/MLU as soon as practicable. It must be noted that FBIHQ concurrence does not eliminate the need for the SAC to personally authorize the CHS's engagement in otherwise illegal activity (e.g., money laundering).

(U) NOTE: A money laundering investigation using a CHS instead of a UCE to facilitate the money laundering transactions, will, as a matter of FBI policy, be treated the same as if it were a Group I UCO if the amount being laundered exceeds \$1 million. As a result, the CUORC process will be required in such cases.

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3.1.4. (U) Providing FBIHQ Notification

(U) Field offices must advise AF/MLU and any other appropriate FBIHQ operational unit prior to, or as soon as practicable after, engaging in money laundering transactions outside of a Group I or Group II UCO. This applies to transactions involving either CHSS or UCEs. This may be done telephonically by the case agent, but must be followed by an electronic communication (EC) so that the information can be uploaded and indexed. The following issues must be addressed in the EC:

- (U) The background and objectives of the investigation.
- (U) The details of the proposed transaction(s), amount to be laundered, identity of the subjects, bank accounts to be used (if known), and the number and total amount of all previously approved transactions.
- (U) If the money is to be invested, how it will be segregated to avoid the commingling of funds and potential harm to third parties.
- (U) The prosecutive opinion of the Assistant United States Attorney (AUSA), if applicable.
- (U) The concurrence of the SAC, which may be delegated in writing to the ASAC.

3.1.5. (U) Money Laundering Group I UCO Proposals

(U) Money laundering Group I UCO proposals must be submitted to the operational section at FBIHQ that has program responsibility for the underlying criminal activity. For example, a money laundering Group I UCO proposal where the proceeds to be laundered are derived from a bank fraud must be submitted to the appropriate operational desk; a Colombian drug money laundering Group I UCO proposal must be submitted to the Organized Crime (OC)/Drug Section. The UCO proposal must follow the guidelines established in the FGUSO, the AGG-UCO, and the DIOG. In addition, money laundering UCO proposals must include a detailed explanation of the proposed money laundering methods, such as the use of any domestic or foreign business, bank account, or financial institution. If it is anticipated that the UCO will involve international activity, the need for cooperation of foreign law enforcement, or the involvement of foreign government officials, the comments of the appropriate legal attaché (Legat), and IOD must be solicited before the UCO proposal is submitted to the CUORC. The use of investments in the money laundering process, and how the funds are to be segregated to avoid commingling and potential harm to innocent third parties, must be sufficiently explained.

(U) All Group I UCO [REDACTED]

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(U) It is the responsibility of the field office to monitor the amount of funds laundered. Once the cap is reached, all money laundering activity must cease, pending review by FBIHQ. Field offices are expected to anticipate the need for FBIHQ authority to exceed the cap. In these instances, a supplementary EC requesting authority to raise the cap must be submitted to the operational section at FBIHQ, with one copy to the Undercover and Sensitive Operations Unit (USOU). Field offices must anticipate at least 30 days for requests to be reviewed by the CUORC and approved by the AD, CID. An EC requesting authority must include the following information:

1. (U) An update and summary of the investigation conducted since the initial Group I UCO presentation.
2. (U) Any accomplishments or progress made in achieving the objectives stated in the initial Group I UCO proposal.
3. (U) An explanation of the proposed money laundering activity if it differs from the initial proposal.
4. (U) The necessity for continued money laundering activity (e.g., anticipated accomplishments or specific objectives for the proposed activity).
5. (U) The legal opinion of the USA.
6. (U) The concurrence of the SAC.

(U) Requests for renewal of UCO authority (additional six-month authority) must continue to be submitted pursuant to the FGUSO.

(U) Once a Group I UCO has been reviewed by the CUORC and approved by the AD, CID, individual money laundering transactions within the established cap may be approved by the SSA. A change in the focus of a UCO or a major change in the proposed money laundering activity requires that a supplementary proposal be submitted to the CUORC and approved by the AD, CID.

3.1.5.1. (U) Additional Reporting Requirements

(U) Proper coordination of individual money laundering investigations is necessary to eliminate any possibility that agencies are unwittingly laundering money for themselves or each other. Therefore, field offices must notify FBIHQ by EC after each money laundering transaction where government agents, or persons operating at their direction, launder funds derived from unlawful activity or launder government funds pursuant to 18 U.S.C. § 1956(a)(3). Notification must be made as soon as possible, but no later than 15 calendar days after the transaction. The brief EC must include the time, date, and location of the money laundering, as well as the amount laundered. The EC must be sent to the operational CID unit responsible for the violation and the AF/MLU, CID. If the case agent is not certain that the EC will reach the AF/MLU within 15 calendar days, a summary e-mail must be sent in advance of the EC.

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3.2. (U) Money Laundering Transactions Involving Terrorist Organizations

(U) Even the smallest amount of money in the hands of an international or domestic terrorist organization could have devastating consequences. The FBI must ensure that it does not support the terrorist organizations that the United States and its allies are attempting to dismantle.

3.2.1. (U) Designated Foreign Terrorist Organizations List

(U) Since 1997, the U.S. Department of State (DOS) has maintained the list of Foreign Terrorist Organizations (FTO) which identifies FTOs that have demonstrated a capability and/or willingness to engage in terrorist methods to threaten U.S. national security interests. These methods include attacks on U.S. nationals; American national defense; and military, diplomatic, and economic interests. The fact that an organization is designated on the FTO list provides the legal authority to investigate and prosecute U.S. citizens or foreign nationals within the United States for financially, ideologically, or logistically aiding any designated FTO. Certain members or representatives of an FTO on the list can be denied entry to the United States through visa rejection or other means. Pursuant to Executive Order (EO) 13244, the United States can compel U.S. financial institutions to freeze any assets linked to an FTO and report them to the United States Department of the Treasury (DOT).

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(U)

3.2.2. (U) FBI Policy Regarding Transactions with Terrorist Organizations

(U) Absent an exemption, this PG prohibits money laundering transactions of any type between a UCE or government CHS and any individual or group engaged in international or domestic terrorism and/or any organization designated by the United States Government (USG) or its allies as an FTO, where the funds laundered are to be delivered to the individual or group.

(U) Absent an exemption, this PG prohibits transactions involving a country designated by the USG as a "state sponsor of terrorism."

(U) Absent an exemption, this PG prohibits transactions involving individuals and groups engaged in international and/or domestic terrorism as defined in 18 U.S.C. § 2331.

(U) This general prohibition does not apply to money laundering stings or other operations where the funds are recovered by the FBI at the time of delivery or within a specified short time.

(U) Transfers of material goods [redacted] are not covered by this policy. Responsibility for overall compliance with the aforementioned policy rests with the requesting field office. Close coordination with FBIHQ is necessary to make sure that this policy is not violated. The policy applies to facilitation cases.

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3.2.2.1. (U) Facilitation

(U) Facilitation, when used in the context of money laundering, indicates assistance provided by the FBI or other law enforcement officials to an individual or criminal enterprise in support of some underlying criminal activity [REDACTED]

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[REDACTED] UCEs who launder the funds generated by individuals or criminal groups are often criticized for facilitating the criminal activity. The degree to which agents facilitate criminal activity must be strongly considered by individual SSAs when the FBI engages in money laundering for an individual or a criminal enterprise. Consequently, the specific goals and objectives of the overall investigation must incorporate a plan for these money laundering transactions. SSAs must evaluate the investigative benefits obtained (e.g., probable cause for Title III or search warrant) from the laundering transaction against the risk of facilitating the criminal activity.

(U) [REDACTED]

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3.2.3. (U) Potential Exemptions

(U) This policy anticipates some instances where conducting a money laundering transaction with a terrorist organization, designated or not, could be allowed. The cost/benefit analysis must be articulated to the highest levels of FBIHQ. A field office must conduct a risk assessment to include estimated risks to U.S. citizens and other third parties. In addition, the field office must detail the investigative need for the transaction and the reasons why other investigative measures are insufficient. The office must also have authority for the UCE or CHS to engage in the money laundering, material support, conspiracy, structuring, bulk cash smuggling, and any other offenses relevant to the operation. The only way such an investigation can be authorized is with the approval of the Director and the Assistant Attorney General for National Security: See AGG-Dom, Section V(C)(3).

(U) If the proposed money laundering transaction involves funds of a designated terrorist organization (DTO) rather than FBI funds, and the Department of the Treasury, Office of Foreign Assets Control (OFAC) has issued an order to financial institutions to block financial transactions involving such assets pursuant to 8 U.S.C. §1189, then: (1) OFAC must concur with the money laundering transaction, and/or (2) the Attorney General must authorize the illegal activity in violation of the OFAC order, and (3) the Director or his designee must personally approve the transaction.

(U) In order to request an exception/exemption, the field office must submit an EC to the appropriate operational unit at FBIHQ, the AF/MLU, and the Terrorist Financing

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Operations Section (TFOS). The operational unit drafts the appropriate approval communications for signature by the Director or his designee.

3.3. (U) Use of Terrorism Classification and Money Laundering Subclassifications

3.3.1. (U) Terrorism Matters

(U) If a field division opens a criminal investigation with subjects having possible or confirmed ties to terrorism, the investigation must be opened under the ☐ investigative classification. Informational copies of the communications that relate to money laundering must be provided to the AF/MLU by the case agent simultaneously with the case opening.

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3.3.2. (U) Money Laundering Subclassifications

(U) FBIHQ has noted a substantial increase in the number of money laundering investigations that target criminal enterprises whose principal activity is laundering the illicit proceeds of specified unlawful activities. Money laundering investigations may be opened under the 272 classification. In order to accurately reflect the underlying nature of investigations within the 272 classification, the following subclassifications have been established:

- (U) 272A - Money Laundering - Organized Crime
- (U) 272B - Money Laundering - White Collar Crime Matters
- (U) 272C - Money Laundering - Violent Crimes Major Offenders (VCMO) Matters
- (U) 272D - Money Laundering - Unknown Specified Unlawful Activity (USUA)
- (U) 272E - Money Laundering - Targeting Industries or Facilities
- (U) 272F - Money Laundering - Drugs

3.3.3. (U) Cross-Program OC, Gangs and Criminal Enterprise Program (G/CEP) and Money Laundering Cases Initiation Guidance

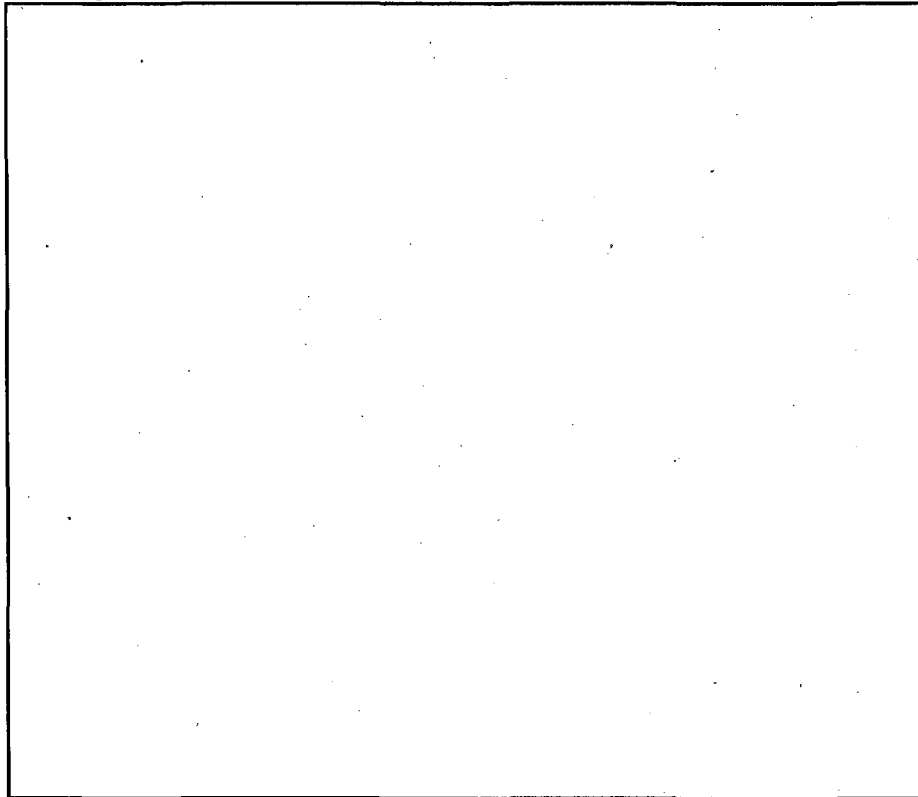
(U) Prior to the initiation of any organized crime or drug investigation that involves potential money laundering charges, field office OC, drug, and/or money laundering SSAs must review the circumstances of the planned investigation to determine its focus and apply the following criteria:

- (U) If the target of the investigation is a drug trafficking organization linked to the Consolidated Priority Organization Targets (CPOT) list or other identified significant drug trafficking organization, and the objective of the investigation is to dismantle the drug trafficking organization. The investigation must then be initiated under the 281/245 (B, C, F, or I) classification, even though money laundering methods are being used to target and dismantle the organization.

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- (U) If the target of the investigation is an organized criminal enterprise linked to the OC threat list or another identified significant organized criminal enterprise, and the objective of the investigation is to dismantle the organized criminal enterprise, then the investigation must be initiated under the appropriate OC classification even though money laundering techniques are being used to target and dismantle the organization.
- (U) If the target of the investigation is a money laundering industry and/or facility and the objective is to disrupt and dismantle the money laundering entity, the investigation must be initiated under the appropriate 272 classification.
- (U) If a drug nexus to the investigation exists (e.g., drug traffickers of unknown significance using the industry/facility to launder drug proceeds), the investigation may appropriately be opened under the 272F classification.



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3.3.4. (U) FBIHQ Program Management of Cross-Program OC, G/CEP, and Money Laundering Investigations

(U) Program management responsibility for 272A and 272F money laundering investigations remains with the AF/MLU, Financial Crimes Section, CID. However, in order to maximize the use of the enterprise theory of investigating these violations, it is required that 272A and 272F investigations meet the criteria established for OC and G/CEP investigations, respectively. See the DIOG for enterprise investigation case initiation criteria. Additionally, OC-related or C/CEP investigations may have added reporting or notification requirements. Therefore, their respective PGs or policy guidance must be consulted prior to initiating a 272A or 272F.

(U) When the AF/MLU receives an opening communication for a 272A or 272F matter, it solicits the concurrence of the appropriate OC or Drug Section operational unit to ensure the investigation is an appropriate use of OC or Drug Program resources. The AF/MLU also ensures the investigation meets the appropriate OC or drug case initiation criteria. The AF/MLU coordinates with the appropriate OC or drug operational units regarding significant developments during the investigation and ensures that copies of all case communications are provided.

(U) When OC or Drug Program operational units receive an opening communication for an OC or drug matter that has a money laundering component, they review the opening communication to ensure the matter is properly classified and then notify the AF/MLU that an investigation using money laundering techniques has been opened. The OC and drug operational units coordinate with the AF/MLU regarding significant developments such as arrests, indictments, convictions, or searches and seizures during the course of the investigation and ensure that copies of all case communications are provided to AF/MLU.

3.3.5. (U) Field Office Responsibilities for Reporting Cross-Program Drug/Money Laundering Investigations

(U) Organized crime, drug, and money laundering program supervisors must ensure that all communications to FBIHQ related to these cross-program investigations are addressed to both the appropriate G/CEP unit and the AF/MLU.

(U) Accordingly, field offices are required to address copies of all future 272A and 272F communications to the appropriate OC and G/CEP units. Field offices must also forward copies of all organized crime and drug matter communications to the AF/MLU when the investigations entail a money laundering component.

(U) Moreover, case agents will coordinate the money laundering components of organized crime and drug investigations with the Special Operations Division (SOD). SOD provides useful database searches and ensures that all such investigations are coordinated with the Drug Enforcement Administration (DEA) and the U.S. Bureau of Immigrations and Customs Enforcement (ICE).

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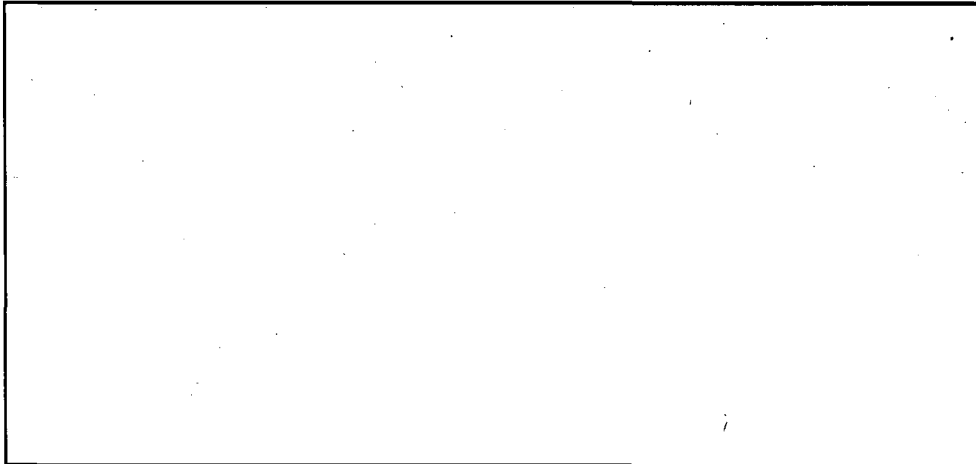
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(U) If a matter is opened under the 272 classification and the target of the investigation is a public figure, or if any other sensitive investigative matter (SIM) is involved, the rules and reporting requirements set forth in the DIOG, Section 10 will apply.

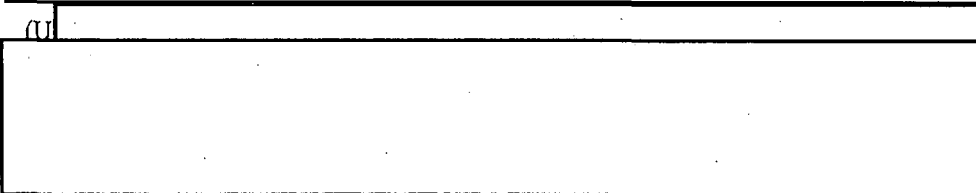
(U) The program management responsibility for the FBI's Money Laundering Program remains within the AF/MLU, FCS, CID.

3.4. (U) Foreign UCO Transactions and Covert Bank Accounts

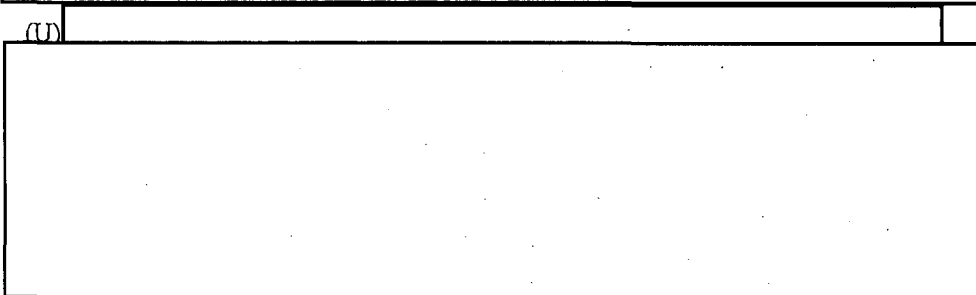
3.4.1. (U) Establishing Covert Accounts in a Foreign-Based Financial Institution



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3.4.2. (U) FBI Policy Regarding Extraterritorial Activity



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3.5. (U) Interagency Coordination of Money Laundering and the Memorandum of Understanding (MOU)

(U) The DOJ, the DOT, and the United States Postal Service (USPS) have entered into a Memorandum of Understanding that delineates the responsibilities for the various agencies for enforcing the money laundering statutes. This MOU, which is set forth in Appendix C of this PG, became effective on August 16, 1990. Under the MOU, the FBI maintains its existing broad jurisdiction in money laundering issues, domestically and internationally. The MOU does not restrict the FBI's money laundering investigative efforts, and it does not require the FBI to turn over any money laundering investigation to another federal, state, or local law enforcement agency, either domestically or internationally. The MOU sets forth the jurisdiction, notice, coordination, and other requirements for the involved agencies that have responsibilities for investigating violations of Title 18, namely, the FBI, DEA, ICE, Internal Revenue Service (IRS), United States Secret Service (USSS), Environmental Protection Agency (EPA), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and the USPS. The FBI has investigatory jurisdiction, in general, over SUAs relating to its existing jurisdiction (e.g., drugs, terrorism, WCC, violent crimes, and foreign counterintelligence).

(U) The investigatory jurisdiction of the FBI, DEA, ICE, USSS, ATF, and the USPS is determined by the specific SUAs involved. A list of these SUAs is set forth below followed by the abbreviated name of the agency or agencies having money laundering jurisdiction for that SUA:

- (U) An offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance, where at least one financial transaction, or part of a financial transaction, takes place in the United States (FBI, DEA).
- (U) Any act or acts constituting a continuing criminal enterprise (21 U.S.C. § 848) (FBI, DEA, USPS).
- (U) An offense under the following:

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Citation	SUA/Offense	Investigatory Jurisdiction
15 U.S.C. §§ 78dd-2; 78dd-3	Relating to bribery of foreign officials (Foreign Corrupt Practices Act).	FBI
18 U.S.C. § 152	Relating to concealment of assets; false oaths and claims; and bribery.	FBI
18 U.S.C. § 215	Relating to commissions or gifts for procuring loans.	FBI
18 U.S.C. §§ 500 -503	Relating to certain counterfeiting offenses.	USSS, USPS* *The jurisdiction of USPS under this SUA involves counterfeiting of money orders, postcards, indicia of postage, and postmarking stamps.
18 U.S.C. § 513	Relating to securities of states and private entities.	FBI
18 U.S.C. § 542	Relating to entry of goods by means of false statements.	ICE
18 U.S.C. § 545	Relating to smuggling goods into the United States.	ICE
18 U.S.C. § 549	Relating to removing goods from ICE custody.	ICE
18 U.S.C. § 641	Relating to public money, property, or records.	FBI, USPS
18 U.S.C. § 656	Relating to theft, embezzlement, or misapplication by a bank officer or employee.	FBI
18 U.S.C. § 657	Relating to lending, credit, and insurance institutions.	FBI, USSS*. *The jurisdiction of USSS under

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Citation	SUA/Offense	Investigatory Jurisdiction
		this SUA involves theft, embezzlement, or misapplication by employees of the Federal Deposit Insurance Corporation (FDIC).
18 U.S.C. § 658	Relating to property mortgaged or pledged to farm credit agencies.	FBI
18 U.S.C. § 666	Relating to theft or bribery concerning programs receiving federal funds.	FBI
18 U.S.C. §§ 793, 794, or 798	Relating to espionage.	FBI
18 U.S.C. § 875	Relating to interstate communications.	FBI
18 U.S.C. § 1005	Relating to bank fraud and embezzlement.	FBI
18 U.S.C. § 1006	Relating to fraudulent credit institution entries.	FBI
18 U.S.C. § 1007	Relating to bank fraud and embezzlement.	FBI
18 U.S.C. § 1014	Relating to fraudulent loan or credit applications.	FBI
18 U.S.C. § 1032	Relating to concealment of assets from a financial institution.	FBI
18 U.S.C. § 1201	Relating to kidnapping.	FBI
18 U.S.C. § 1203	Relating to hostage taking.	FBI

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Citation	SUA/Offense	Investigatory Jurisdiction
18 U.S.C. § 1341	Relating to frauds and swindles against financial institutions involving mail.	FBI
18 U.S.C. § 1343	Relating to wire fraud affecting a financial institution.	FBI
18 U.S.C. § 1344	Relating to financial institution fraud.	FBI
18 U.S.C. §§ 2113 or 2114	Relating to bank and postal robbery and theft.	FBI, USPS FBI and USPS share money laundering jurisdiction regarding the Section 2114 - SUA.
18 U.S.C. §§ 2251, 2251A, 2252, and 2258	Relating to sexual exploitation of children.	FBI, ICE* *The jurisdiction of ICE under this SUA involves the importation or exportation of material involving the sexual exploitation of children.
18 U.S.C. § 2319	Relating to copyright infringement.	FBI
18 U.S.C. § 2320	Relating to trafficking in counterfeit goods or services.	FBI
19 U.S.C. § 1590	Relating to aviation smuggling.	ICE
21 U.S.C. § 830	Relating to precursor and essential chemicals.	FBI, DEA
21 U.S.C. § 863	Relating to transportation of drug paraphernalia.	FBI, DEA, ICE*, USPS *The jurisdiction of ICE under this SUA involves the illegal importation or exportation of drug paraphernalia.
22 U.S.C. § 611 et seq.	Relating to the registration of	United States Attorney General

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Citation	SUA/Offense	Investigatory Jurisdiction
	foreign officials (Foreign Agents Registration Act).	(USAG)
Section 15 of the Food Stamp Act of 1977 (Public Law [P.L.] 95-113)	Relating to Food Stamp Fraud involving a quantity of coupons having a value of not less than \$5,000.	FBI
Section 38(c) of the Arms Export Control Act (22 U.S.C. § 2778)	Relating to criminal violations.	ICE*, ATF** *The jurisdiction of ICE under this SUA involves exportation, in transit, temporary import, or temporary export transactions. **The jurisdiction of ATF under this SUA involves the importation of items on the U.S. Munitions Import List, except those relating to exportation, in transit, temporary import, or temporary export transactions.
50 U.S.C. App. § 2410	Relating to violations of the Export Administration Act of 1979.	ICE
50 U.S.C. § 1705	Relating to penalties of the International Emergency Economic Powers Act.	ICE
50 U.S.C. App. § 16	Relating to offenses and punishment of the Trading with the Enemy Act.	ICE
33 U.S.C. § 1251 et seq.	Felony offenses relating to the discharge of pollutants into the Nation's waters.	FBI, EPA
33 U.S.C. § 1401 et seq.	Felony offenses relating to the dumping of materials into ocean waters.	FBI, EPA

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Citation	SUA/Offense	Investigatory Jurisdiction
33 U.S.C. § 1901 et seq.	Felony offenses relating to the discharge of pollutants from ships.	FBI, EPA
42 U.S.C. § 300f et seq.	Felony offenses relating to the safety of public water systems.	FBI, EPA
42 U.S.C. § 6901 et seq.	Felony offenses relating to resource conservation and recovery.	FBI, EPA

(U) Any act or activity constituting one of the predicate offenses to the Racketeer Influenced and Corrupt Organizations (RICO) Act (18 U.S.C. § 1961(1)). These offenses are as follows:

- (U) **Offense 1:** Any act or threat involving:

SUA/Offense	Investigatory Jurisdiction
Murder	FBI
Kidnapping	FBI
Gambling	FBI
Arson	FBI, ATF
Robbery	FBI
Bribery	FBI
Extortion	FBI
Dealing in obscene matter	FBI
Dealing in a controlled substance or listed chemical, which is chargeable as a state felony.	FBI, DEA, USPS

- (U) **Offense 2:** Any act which is indictable under any of the following:

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Citation	SUA/Offense	Investigatory Jurisdiction
18 U.S.C. § 201	Relating to bribery.	FBI, USPS
18 U.S.C. § 224	Relating to sports bribery.	FBI
18 U.S.C. §§ 471, 472, and 473	Relating to counterfeiting.	USSS
18 U.S.C. § 659	Relating to theft from an interstate shipment.	If the act indictable under § 659 is felonious, FBI and ICE*. *The jurisdiction of ICE under this SUA involves theft from foreign shipment.
18 U.S.C. § 664	Relating to embezzlement from pension and welfare funds.	FBI
18 U.S.C. §§ 891-894	Relating to extortionate credit transactions.	FBI
18 U.S.C. § 1028	Relating to fraud and related activity in connection with identification documents.	If the act indictable under § 1028 was committed for the purpose of financial gain, FBI and USSS.
18 U.S.C. § 1029	Relating to fraud and related activity in connection with access devices.	FBI, USSS, USPS
18 U.S.C. § 1084	Relating to the transmission of gambling information.	FBI
18 U.S.C. §§ 1341, 1343	Relating to mail and wire fraud.	FBI and USPS* *The USPS shares this wire fraud money

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Citation	SUA/Offense	Investigatory Jurisdiction
		laundering jurisdiction with the FBI when the primary focus of the offense is mail fraud.
18 U.S.C. § 1344	Relating to financial institution fraud.	FBI
18 U.S.C. §§ 1425-1427	Relating to immigration fraud.	ICE, FBI
18 U.S.C. §§ 1461-1465 18 U.S.C. §§ 1461-1465	Relating to obscene matter. Relating to obscene matter.	FBI, ICE*, USPS** *The jurisdiction of ICE under this SUA involves §§ 1461-63 and 1465 relating to illegal importation or exportation of obscene matter. **The jurisdiction of USPS under this SUA involves §§1461 and 1463 regarding mailing of obscene matter.
18 U.S.C. § 1503	Relating to obstruction of justice.	FBI, USPS
18 U.S.C. § 1510	Relating to obstruction of criminal investigations.	FBI, USPS
18 U.S.C. § 1511	Relating to the obstruction of state or local law enforcement.	FBI, USPS
18 U.S.C. § 1512	Relating to tampering with a witness, victim, or an informant.	FBI, USPS

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Citation	SUA/Offense	Investigatory Jurisdiction
18 U.S.C. § 1513	Relating to retaliating against a witness, victim, or an informant.	FBI, USPS
18 U.S.C. § 1542	Relating to false statements in the application and use of a passport.	FBI - If the act indictable under § 1542 was committed for the purpose of financial gain.
18 U.S.C. § 1543	Relating to forgery or the false use of a passport.	FBI - If the act indictable under § 1543 was committed for the purpose of financial gain.
18 U.S.C. § 1544	Relating to misuse of a passport.	FBI - If the act indictable under § 1544 was committed for the purpose of financial gain.
18 U.S.C. § 1546	Relating to fraud and misuse of visas, permits, and other documents.	FBI - If the act indictable under § 1546 was committed for the purpose of financial gain.
18 U.S.C. §§ 1581-1588	Relating to peonage, servitude, and slavery.	FBI
18 U.S.C. § 1951	Relating to interference with commerce, robbery, or extortion.	FBI
18 U.S.C. § 1952	Relating to racketeering.	FBI, ATF*, USPS** *The jurisdiction of ATF under this SUA involves traveling in

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Citation	SUA/Offense	Investigatory Jurisdiction
		interstate commerce with respect to arson and to liquor on which federal excise tax has not been paid. **The jurisdiction of USPS under this SUA involves mailing in aid of racketeering enterprises.
18 U.S.C. § 1953	Relating to interstate transportation of wagering paraphernalia.	FBI
18 U.S.C. § 1954	Relating to unlawful welfare fund payments.	FBI
18 U.S.C. § 1955	Relating to the prohibition of illegal gambling business.	FBI
18 U.S.C. § 1956	Relating to laundering of monetary instruments.	FBI
18 U.S.C. § 1957	Relating to engaging in monetary transactions in property derived from SUA.	FBI
18 U.S.C. § 1958	Relating to use of interstate commerce facilities in the commission of murder-for-hire.	FBI
18 U.S.C. §§ 2251, 2251A, 2252, and 2260	Relating to sexual exploitation of children.	FBI, ICE* *The jurisdiction of ICE under this SUA involves the importation or exportation of material involving the sexual exploitation of children.

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Citation	SUA/Offense	Investigatory Jurisdiction
18 U.S.C. §§ 2312 and 2313	Relating to interstate transportation of stolen motor vehicles.	FBI
18 U.S.C. § 2314 and 2315	Relating to interstate transportation of stolen property.	FBI, ICE* *The jurisdiction of ICE under this SUA involves foreign transportation of stolen property.
18 U.S.C. §§ 2318-2320	Relating to copyright infringement and counterfeit goods.	FBI
18 U.S.C. § 2321	Relating to trafficking in certain motor vehicles or vehicle parts.	FBI, ICE* *The jurisdiction of ICE under this SUA involves importation or exportation of certain motor vehicles or vehicle parts.
18 U.S.C. §§ 2341-2346	Relating to trafficking in contraband cigarettes.	ATF
18 U.S.C. §§ 2421-2424	Relating to white slave traffic.	FBI

- (U) **Offense 3:** Any act which is indictable under:

Citation	SUA/Offense	Investigatory Jurisdiction
29 U.S.C. § 186	Dealing with restrictions on payments and loans to labor organizations.	FBI

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29 U.S.C. § 501(c)	Relating to embezzlement from union funds.	FBI
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- (U) Offense 4: Any offense involving fraud connected with a case under Title 11, fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in Section 102 of the Controlled Substances Act), punishable under any law of the United States (FBI).
- (U) Offense 5: Any act which is indictable under the Currency and Foreign Transactions Act.
- (U) Offense 6: Any act which is indictable under the Immigration and Naturalization Act, Section 274 (relating to bringing in or harboring certain aliens); Section 277 (relating to aiding or assisting certain aliens to enter the United States); or Section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of the Immigration and Naturalization Act was committed for the purpose of financial gain.
- (U) Offense 7: Any act that is indictable under any provision listed in 18 U.S.C. § 2332b (g)(5)(B).

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3.6.2. (U) Egmont Requests from Foreign Financial Institutions

(U) The Egmont Group is an international network of over 100 countries that have implemented national centers to collect information on suspicious or unusual financial activity from the financial industry, analyze the data, and make it available to appropriate national authorities for use in combating money laundering, terrorist funding, and other financial crimes. The representing authority of each country is known as a Financial Intelligence Unit (FIU). In the United States [REDACTED] and Egmont is the representative.

(U) The exchange of information is central to the Egmont Group. The two documents "Principals for Information Exchange" (June 2001) and "Best Practices for the Exchange of Information" (updated June 2004) have been adopted to enhance information exchange and to provide guidelines in terms of best practices for the exchange of information between FIUs.

(U) The principles provide, in part, that FIUs should be able to exchange information freely with other FIUs based on reciprocity or mutual agreement and consistent with procedures understood by the requested and requesting persons. Furthermore, the Egmont members have agreed that information exchanged between FIUs may be used only for the purpose for which the information was sought or provided. The requesting FIU may not transfer information shared by a disclosing FIU to a third party, nor make use of the information in an administrative, investigative, prosecutorial, or judicial purpose without the prior consent of the FIU that disclosed the information.

(U) The Egmont Group members have agreed that all information exchanged by FIUs must be subject to strict controls and safeguards to ensure that it is used only in an authorized manner, consistent with national provisions on privacy and data protection.

(U) Money laundering and terrorist financing are international issues that can only be effectively addressed through international cooperation and coordination, to which the Egmont Group is firmly committed.

(U) At a minimum, each FIU collects information from Suspicious Activity Reports (SAR) from its financial institutions. Other sources of information the FIU maintains (or to which it has access) may vary.

(U) Details regarding the submission of Egmont requests can be found on the CID, [REDACTED]

(U) It must be noted that information obtained through the Egmont Group will be used for lead value only. The records received cannot be used as evidence in any court or grand jury proceeding. If records are needed later in these more official settings, copies

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must be requested through formal channels such as Mutual Legal Assistance Treaties (MLAT) or Letters Rogatory.

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4. (U) Procedures and Processes

4.1. (U) Money Laundering: Basic Concepts

4.1.1. (U) Definition

(U) Money laundering is defined by DOJ as the process by which criminals conceal or disguise the proceeds of their crimes or convert those proceeds into goods and services. It allows criminals to infuse their illegal money into the stream of commerce, thus corrupting financial institutions and the money supply, and giving criminals unwarranted economic power. While many definitions for money laundering exist, it can be thought of more simply as any knowing use of the proceeds of criminal activity.

4.1.2. (U) Scope

(U) Money laundering is usually associated with any criminal act in which illicit funds are derived. This includes, but is not limited to, bank fraud, insurance fraud, mortgage fraud, health care fraud, securities/commodities frauds, advanced fee schemes, high yield and prime bank note schemes, Ponzi schemes, government fraud, corporate and occupational frauds, cyber crimes, public corruption, drugs, organized crime, and the financing of terrorism. Money laundering differs from other types of criminal acts in that it is not a stand-alone crime. The laundering of funds is typically a secondary criminal act that only has meaning in the context of another underlying crime. Without proceeds from an underlying crime, there can be no money laundering.

(U) There is one exception to this rule. Under 18 U.S.C. § 1956 (a)(2)(A), otherwise known as the International Transfer Provision, when legitimate funds are sent into or out of the United States from/to an international venue for the purpose of committing a crime, the transaction constitutes money laundering. In such a scenario, the funds being laundered do not represent proceeds *from* a criminal act, but rather funds intended to be used *for* a criminal act.

4.1.3. (U) Overview of Money Laundering Statutes

(U) There are two primary money laundering statutes in 18 U.S.C. §§1956 and 1957. Section 1956 has four basic statutory elements that must be addressed in criminal complaints and indictments:

1. (U) A financial transaction or attempted financial transaction must have taken place.
2. (U) The transaction must involve proceeds from a specified unlawful activity.
3. (U) The subject(s) must have had knowledge that the proceeds were derived from some form of criminal activity.
4. (U) The subject(s) must have acted with specific intent to do one or more of the following:

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- (U) Promote a specified unlawful activity.
- (U) Avoid transaction reporting requirements.
- (U) Conceal or disguise the source of the proceeds.
- (U) Evade taxes.

(U) (The word **PACE** can be used as a mnemonic to recall these specific intent types.)

(U) Because of the requirement to prove specific intent, 18 U.S.C. § 1956 is often called the "specific intent" statute.

(U) Section 1956 is broken up into three major components:

1. (U) The financial transaction provision, which addresses domestic transactions.
2. (U) The international transfer provision, which relates to international transactions.
3. (U) The sting provision, which is used in conjunction with undercover operations.

(U) Section 1957 is often called the "spending statute" because it does not require proof of specific intent. Therefore, simply disposing of illegal proceeds can be considered money laundering. However, to prosecute an individual for an 18 U.S.C. § 1957 violation, the transaction must have been in an amount greater than \$10,000.

(U) For a more detailed discussion regarding 18 U.S.C. §§ 1956 and 1957 and other related statutes, refer to "Appendix A: Legal Authorities," of this PG.

4.2. (U) The Money Laundering Process

(U) There are three steps in the money laundering process: placement, layering, and integration. The initial parting with, or disbursement of, these funds is known as placement. The funds may be used to finance bank or brokerage accounts, rent safe deposit boxes, purchase insurance contracts, gamble, or simply purchase products and services. The greatest risk of detection exists during the placement phase.

(U) The second phase of the process, layering, involves separating the illicit funds from their original source through a series of financial transactions to create a complex web of transactions designed to hinder law enforcement. An example of layering is the transfer of illicit funds from one bank account to others held in different names. It is common for such accounts to exist at different banks domiciled in foreign jurisdictions. Shell companies and nominee accounts may be used to provide an additional layer of anonymity.

(U) The integration phase is the third and final stage of the money laundering process. Integration occurs when the illicit funds have been seemingly "cleaned" and are ready to be used to purchase legitimate assets such as homes, boats, vehicles, and jewelry. Laundered funds may end up in semi-legitimate businesses where they are commingled with legitimately derived earnings. Such transactions often create significant opportunities for forfeiture.

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4.3. (U) Money Laundering Methods

(U) The number and variety of methods used by criminals to launder money render it impossible to provide a complete listing. The means to launder money is limited only by the creativity and ability of the launderers themselves. However, some methods commonly observed by law enforcement warrant attention in this section.

4.3.1. (U) Bulk Smuggling, 31 U.S.C. § 5332

(U) Bulk smuggling of cash or monetary instruments is the physical movement of cash or monetary instruments across international borders.

4.3.1.1. (U) Cash Smuggling

(U) Criminals use various methods to attempt to transport illicit cash out of the United States. Such methods include express packages, private aircraft or boats, commercial shipments, luggage, and vehicles - often concealing money in hidden compartments. The U.S./Mexican border is particularly vulnerable to bulk cash smuggling where ICE officials regularly disrupt smuggling attempts.

(U) Large volumes of cash can be difficult for smugglers to conceal. For example, \$1 million in \$20 bills weighs approximately 100 pounds and would be stacked approximately 18 feet high. Therefore, launderers find more efficient ways of moving currency out of the United States, such as exchanging smaller bills for larger denominations of either U.S. or foreign currency, using stored value cards (SVC), informal value transfer systems, the black market peso exchange, the global financial system, or money services businesses (MSB).

4.3.1.2. (U) Smuggling of Monetary Instruments

(U) Illicit proceeds are not always in the form of cash. Other types of monetary instruments may be smuggled, including cashier's checks, traveler's checks, stocks, bonds, or certificates of deposit.

4.3.2. (U) Stored Value Devices

(U) Stored value devices include cards that can store money or value for future use. These come in various forms, including:

- (U) Smart cards.
- (U) Gift cards.
- (U) Prepaid debit cards.

(U) Smart cards are prepaid and keep track of balances directly on the card through computer chips or other technology. Transaction and balance information are not maintained by the issuer or other third party. If the card is lost or stolen, the original purchaser cannot recover the card value, and the card can be used by anyone who possesses it.

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(U) Gift cards can be purchased anonymously through retail outlets. They are sometimes pre-denominated and "association-branded," meaning they carry the Visa, MasterCard, or American Express logos. Gift cards generally do not have a reload feature, although there may be exceptions to this rule. Gift cards differ from smart cards in that transactions and balances are maintained by the issuer or a designated processor and can be replaced or cancelled if they are lost or stolen.

(U) Prepaid debit cards (PDC) are association-branded and are often linked to bank accounts. PDC holders can reload the cards with additional value, use the cards to purchase products or services, and withdraw funds from automated teller machines (ATM) in virtually any country. As with gift cards, transactions and balances on PDCs are maintained by the issuer or a designated processor and can be replaced or cancelled if they are lost or stolen. While any type of PDC can be exploited by money launderers, those with no connections to bank accounts offer the greatest opportunities.

(U) Stored value cards can also be defined based on their transaction cycle. The cycle for SVCs can be defined as either closed system or open system.

(U) Closed system SVCs are issued by a specific retailer and can only be used to purchase the products or services of that retailer. Closed system SVCs can sometimes have a reload feature, but cannot be used for ATM withdrawals. An example of a closed system SVC is the AT&T (American Telephone and Telegraph) prepaid telephone card that can only be used for telephone calls.

(U) Open system SVCs can generally be used for purchases at retailers who accept Visa, MasterCard, American Express, or Discover, as well as to withdraw funds at ATMs worldwide. In some cases, open system SVCs are limited to retail purchases. However, most open system SVCs are appealing because their use is not limited. An example of an open system card is

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(U) [REDACTED]

[REDACTED]

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(U) Open system PDCs, particularly those not linked to a bank account, can be purchased with very little personal information or verification by launderers. They can easily be transported without detection and can be used to withdraw funds at ATMs. They can then be reloaded with additional illegally derived funds with the intent of conducting other ATM withdrawals.

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(U) Emerging technology will produce new forms of stored value devices. An example is the mobile payment, or "m-payment," which permits funds to be stored and transferred through cellular telephones.

(U) Figure 1 illustrates various prepaid cards that can be purchased on the Internet. It should be noted that the Vaya MasterCard features virtually anonymous purchase and use.

Stored Value Cards

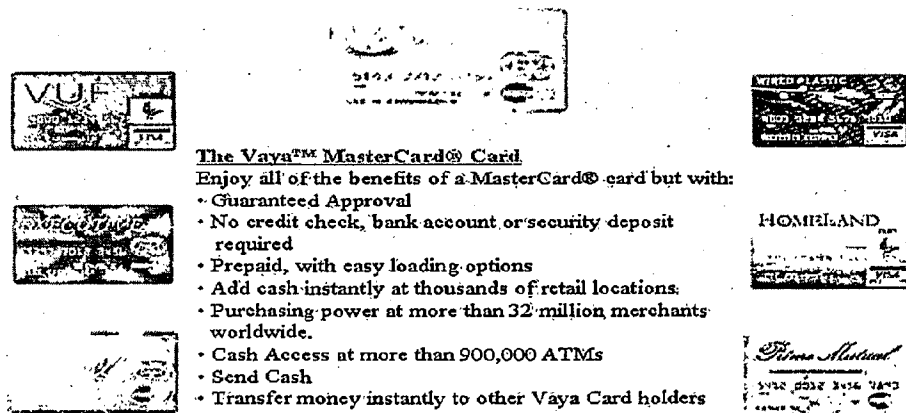


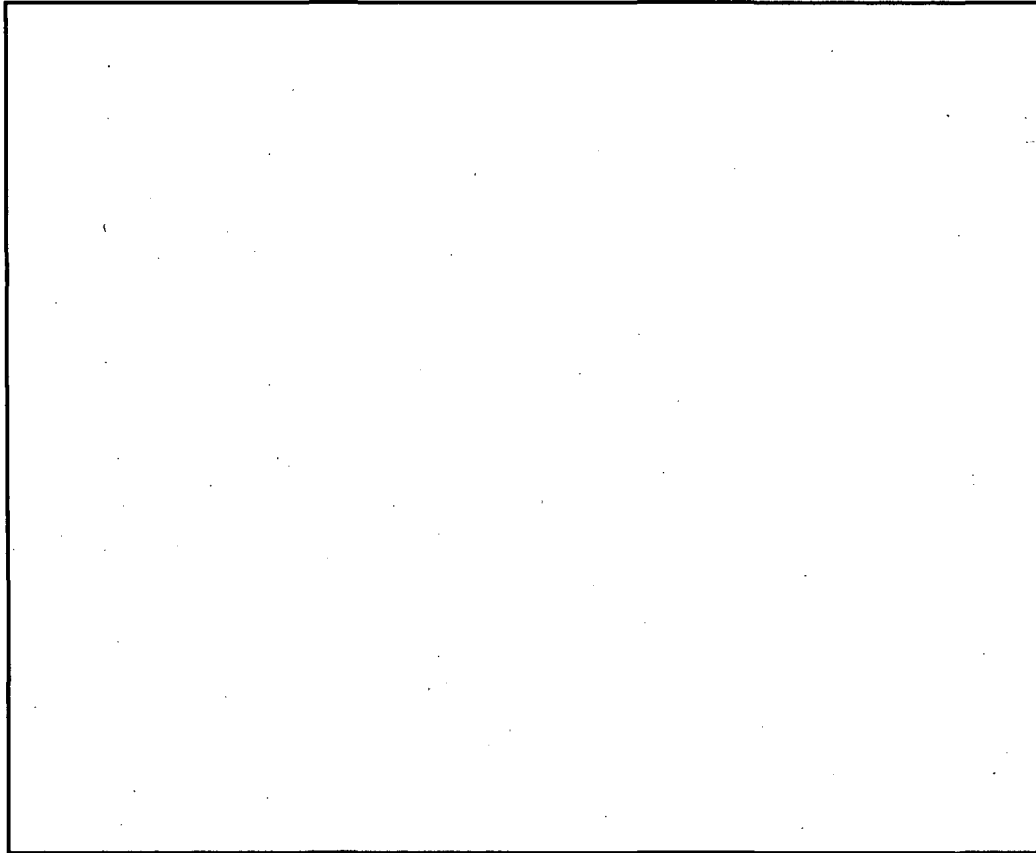
Figure 1. (U) Association-Branded Prepaid Cards

4.3.3. (U) Informal Value Transfer Systems (IVTS)

(U) Informal value transfer systems, also known as underground banking systems, are informal networks of individuals and/or entities that have the ability to instantaneously transfer value without the physical movement of cash. *Hawalas* are a type of IVTS that have developed over a period of one hundred years. Historically, these underground systems have been operated and used by networks of individuals of similar ethnic origin. These informal networks flourished because of a mistrust of traditional banking systems. *Hawalas* allow the instantaneous transfer of funds from an individual in one country to an individual in another country by *Hawaladars*, the individuals responsible for arranging such transactions. *Hawaladars* can move money to a recipient overseas, usually through a telephone call to the *Hawaladar's* counterpart in a recipient's country.

(U) It is important to note that *Hawalas* can also be used for legitimate purposes, such as sending money to family members in other countries where the financial system is less developed. However, the structure of *Hawalas* allows them to be exploited by money launderers as shown below in Figure 2.

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Figure 2. (U) Basic *Hawala*

4.3.4. (U) Black Market Peso Exchange (BMPE)

(U) The Black Market Peso Exchange developed in response to [REDACTED] restrictions that limited access to U.S. dollars in Colombia. To obtain U.S. dollars, Colombian nationals were required to obtain import permits, which could only be justified by their necessity to the government. Significant duties and taxes were imposed on such transactions. Colombian money brokers began offering U.S. dollars in the black market to circumvent this process. The BMPE is used primarily by Colombian drug traffickers who use Colombian money brokers and their agents in the United States to receive the proceeds of drug transactions without the physical transportation of cash across national borders. Figure 3 illustrates a basic BMPE transaction.

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Black Market Peso Exchange

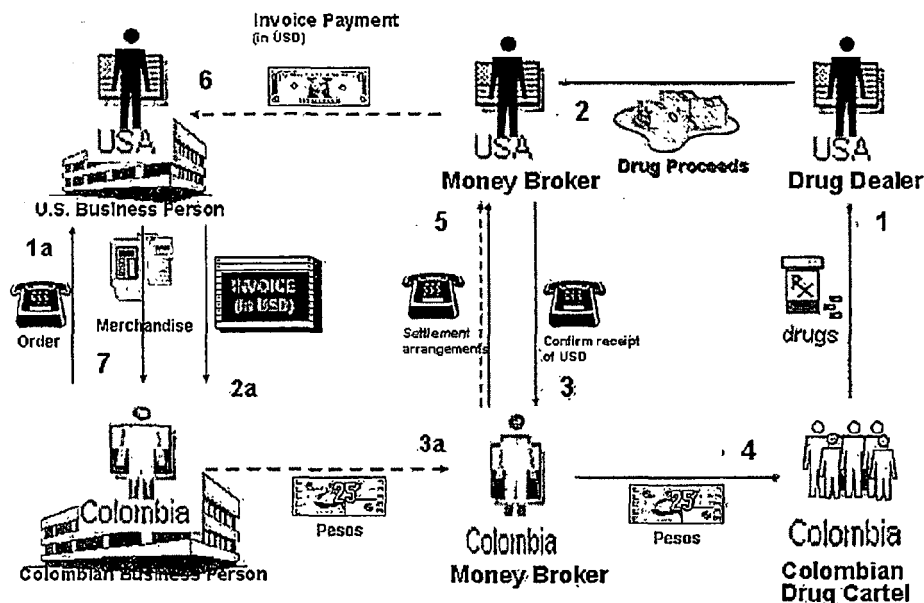


Figure 3. (U) Black Market Peso Exchange

4.3.5. (U) Global Financial System

(U) The global financial system consists of banks, securities firms, insurance companies, money services businesses, casinos, credit unions, and any other entity defined as a financial institution under the BSA. Because money services businesses are addressed in another section of this PG, this section focuses on the remaining categories.

(U) Illicit funds can be transferred from account to account and from institution to institution in an effort by launderers to cloud the paper trail for law enforcement. With current technology, banking transactions can be conducted online, and international accounts can be established with relative ease. While such advancements have facilitated legitimate banking functions, they have also provided opportunities for criminals to more easily engage in layering transactions. The use of accounts established in the names of nominees or shell companies exacerbates the problem by creating an additional layer of anonymity.

(U) Specific uses of the global financial system to launder money include:

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- (U) **Structuring:** This is most often done when a criminal deposits funds into financial institutions in increments less than \$10,000 in value in order to avoid the statutory requirement for filing Currency Transactions Reports (CTR). Lower level individuals (smurfs) are sometimes hired to conduct such transactions, typically using multiple financial institutions. This process is known as smurfing. The process usually involves three phases: First, funds are deposited into several accounts at different financial institutions. Second, the funds are wire-transferred and pooled into a single account in another location. Third, the funds are wire-transferred out of the country.
- (U) **Loan-back schemes:** Such schemes involve illegal deposits at financial institutions where the criminal receives a "loan" from the bank, trust, corporation, or fiduciary. The loan is actually the criminal's own illegally derived money.
- (U) **Insurance contract schemes:** Insurance companies defined as financial institutions under the BSA must comply with certain reporting and AML compliance programs. However, it was only beginning May 2, 2006, that certain insurance companies were compelled to implement AML compliance programs.

(U) Money launderers use various types of insurance contracts to conceal ill-gotten gains. The most common schemes involve life insurance contracts. In fact, more than 65 percent of all money laundering cases involving insurance contracts pertain to life insurance and have some variation of the following schemes:

- (U) Over-funding life insurance contracts followed by early withdrawals: The penalties are viewed as a cost of doing business.
- (U) Establishing life insurance contracts for fictitious individuals: Death certificates are then falsified by corrupt doctors and are sent to insurance companies to process the claims.
- (U) Purchasing life insurance contracts with a cooling-off period allows launderers to pay for the contracts and then liquidate them without penalty. Insurance companies issue checks that can then be deposited into banks free-and-clear.

(U) It is important to note that any life insurance contract with a cash value can be exploited by money launderers. Key "red flags" regarding life insurance contracts include:

- (U) Large "one-off" cash transactions.
- (U) High premium payments relative to reported income.
- (U) Policy holder's lack of concern over charges and early redemption fees.
- (U) Policy payments made by a third party or by multiple parties, indicating a possible nominee name on the contract itself.

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- (U) Premiums received from offshore and/or lightly regulated financial intermediaries.
- (U) Frequent changes of beneficiary.

(U) Figure 4 illustrates how the global financial system can be exploited by criminals to launder money.

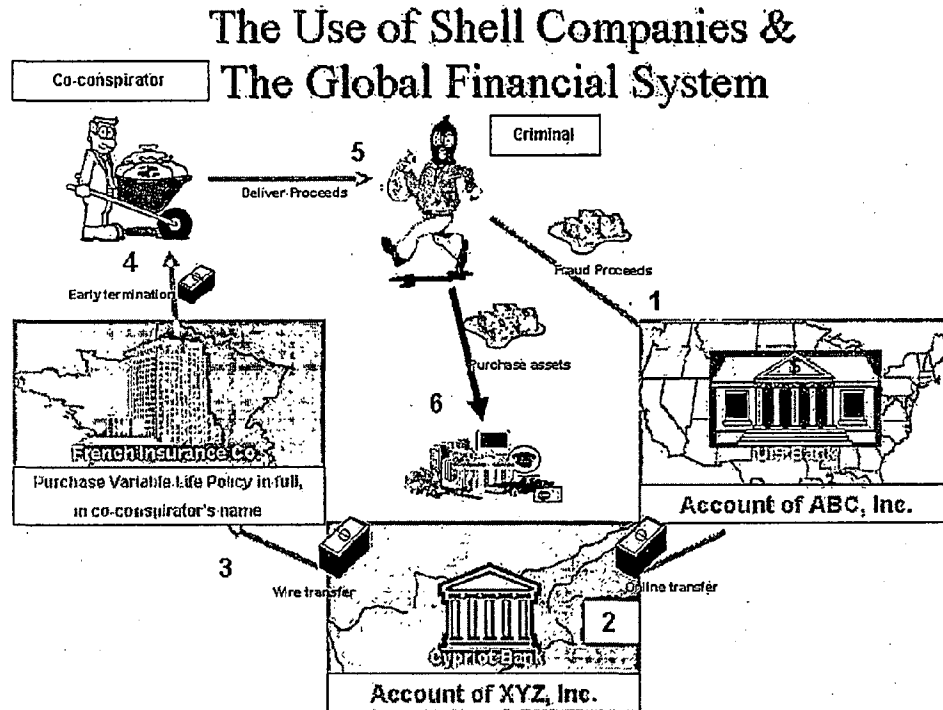


Figure 4. (U) Use of the Global Financial System to Launder Money

- (U) The criminal deposits fraud proceeds into a U.S. bank account established in the name of shell company ABC, Inc.
- (U) The criminal orders a wire transfer using a remote computer from a U.S. bank account to a bank account in Cyprus in the name of shell company XYZ, Inc.
- (U) The criminal then orders a wire transfer from XYZ, Inc., to a French insurance company to fund a whole life insurance policy in the name of a co-conspirator.
- (U) As the criminal instructed, the co-conspirator cancels the contract early, pays an early termination penalty, and receives a check for the remaining cash amount.

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- (U) The co-conspirator then deposits the check into a bank account free-and-clear and arranges to return the money to the criminal.
- (U) The criminal uses the laundered funds to purchase assets.

4.3.6. (U) Money Services Businesses

(U) Money services businesses provide a full range of financial services and products outside of the banking system. These products and services are offered to customers without the need to establish accounts and often with minimal identification. MSBs are currently defined as financial institutions under the BSA and are subject to its requirements. MSBs remain an attractive avenue for launderers worldwide.

(U) MSBs generally fall into one of five categories:

1. (U) Money transmitters.
2. (U) Currency exchangers.
3. (U) Check cashers.
4. (U) Issuers of money orders and traveler's checks.
5. (U) Sellers or redeemers of traveler's checks, money orders, and stored value cards.

(U) Money transmitters such as Western Union can send money to thousands of cities instantaneously or within 24 hours. The sheer volume of legitimate cash transactions through these companies provides an excellent hiding place for money laundering activity. Money transmitter services are inexpensive relative to other laundering channels and often transfer funds for customers with no face-to-face contact.

(U) Currency exchangers (CE) exist in major cities, airports, and along international borders for the purpose of exchanging the currency of one country to that of another. CEs typically take the currency obtained from customers and deposit those funds into the CE's bank account, thereby limiting the paper trail for law enforcement when tracing the illicit funds. In some cases, where the CEs are part of the laundering scheme, they may move currency for customers in bulk under the name of the CE to mask the identity of the source of the funds.

(U) *Casas de Cambio* and *giros* are smaller versions of CEs. Once located only along the Mexican border, they are now found throughout the United States. *Casas* are used primarily to move money to Mexico, while *giros* are used to transfer funds to Colombia.

(U) Check cashers allow criminals to convert checks to cash without an account, and often with little disclosure of personal information. The conversion of these checks (often the checks of fraud victims) by the check casher significantly thwarts law enforcement efforts to establish the identity of the check holder and develop evidence on the ultimate use of proceeds.

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(U) Issuers of money orders and traveler's checks include Western Union, MoneyGram, and the U.S. Postal Service. Money orders in particular are vulnerable to money laundering because if purchased in amounts under \$3,000, they can be purchased anonymously or with little personal information about the purchaser. In the absence of other methods of identification such as surveillance cameras and witness interviews, it may be virtually impossible to obtain the identity of the true money order purchaser.

(U) For further information on these and other money laundering schemes, refer to the U.S. Money Laundering Threat Assessment, December 2005, which can be found at the [REDACTED]

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4.3.7. (U) Corporate Laundering Schemes

(U) False sales or fraudulent invoicing is a means by which a criminal, using either real or bogus corporations, shows illicit funds as proceeds of seemingly real business transactions. The "corporation" prepares invoices that are inflated or deflated, depending on which way the criminal wants to move funds. This technique is often used in connection with sales of precious metals. For example [REDACTED]

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[REDACTED] The value of the sale is overinflated. Funds are transferred to the account of the foreign company to pay for the gold. The gold is then smuggled back out of the country to be re-sold and re-shipped to the U.S. company.

(U) Fraudulent foreign enterprises: Once outside the country, money can often be returned for investment in the United States by claiming a profit from a foreign business venture. Situating the bogus transaction in a financial haven country protects the scheme. In many cases, such transactions are also linked to tax fraud.

4.3.8. (U) Digital Currency (E-Currency)

(U) Digital currency firms offer an alternative to traditional paper currency. The issuance of digital currency is driven by two distinct motives. First, because digital currency is often backed by precious metals such as gold, digital currencies provide an easier, more cost-effective way to invest in the underlying commodity. Second, digital currency can be used as a means of international exchange because, unlike paper currency, digital currency is standardized across all countries. Digital currency providers are typically registered offshore, although many of their operations touch the United States in some way.

(U) Digital currency accounts can be established online, often with very little personal information or verification. Accounts can be funded through digital currency exchange brokers (CEB) through various methods. In some cases, the CEBs can convert the digital currency of one firm to that of another. With just a few keystrokes on a computer, account holders can purchase products and services through participating vendors, or transfer digital currency units instantaneously to other account holders worldwide.

(U) Digital currency serves many legitimate functions. Companies can use digital currency to facilitate payments to suppliers or disseminate dividends to shareholders. However,

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because of the lax standards of many digital currency firms with regard to establishing AML procedures and controls and the current lack of government regulation, digital currency poses significant risks to society and provides a means for criminals to launder money or finance terrorist activity.

4.4. (U) Money Laundering: Conducting Investigations

(U) Money laundering investigations are similar to investigations of other financial crimes. Traditional investigative methods serve a valuable purpose, particularly when the criminal activity has been completed and opportunities for a proactive approach are unavailable. However, traditional investigative methods can often be used in conjunction with covert operations. The combination of both approaches can greatly enhance the extent and quality of the evidence obtained.

(U) Money laundering investigations may be pursued by targeting the underlying criminal activity and tracing the illicit proceeds or by identifying the illegal money laundering operation and linking the funds to an SUA. While each investigation is unique in certain aspects, and extensive discussion regarding all available investigative methods is beyond the scope of this PG, there are certain generic investigative steps that warrant attention. These steps can be categorized as follows:

4.5. (U) Initiating Money Laundering Predicated Investigations/Transactions

4.5.1. (U) Traditional or Overt Investigations

- (U) The case agent prepares an EC containing background information of the investigation and predication.
- (U) SSA approval is obtained. If the case involves a SIM, additional approval is required as set forth in the DIOG, Section 10.

4.5.2. (U) Sophisticated and Covert Investigative Methods

4.5.2.1. (U) Pen Registers

(U) Pen registers are obtained by submitting a court order to a telephone company. Pen registers can provide investigators with a detailed account of the subject's calls, both made and received; the times and dates of the calls; and telephone numbers of the recipients or callers. This information can be used to identify potential co-conspirators and to establish the existence of relationships with subjects of other investigations or with individuals previously convicted of a crime.

4.5.2.2. (U) Title III

(U) A Title III, otherwise known as a "bug" or wiretap, is a valuable investigative method that allows an investigator to listen to real-time conversations of subjects or key individuals either on a telephone or in a particular location. Title IIIs can also be obtained to physically observe individual actions on closed circuit television, computer, etc. Title IIIs have the

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potential to show a jury the subject's intent, an admission of guilt, or the subject in the process of committing a crime. There is no better evidence than a subject's own words. In order to obtain authorization for a Title III interception, there must be probable cause that the device or location is being used to discuss criminal activity.

4.5.2.3. (U) Undercover Operations

(U) UCOs are proactive investigations that involve the use of undercover employees and/or CHSs. UCOs, if managed properly, can result in substantial evidence during the investigation of money laundering and other criminal activities. Among the many benefits of UCOs are:

- (U) Potential access to intelligence and/or evidence that would not otherwise be accessible.
- (U) The ability to be proactive and prevent criminal activity from occurring or prevent the public from being victimized.
- (U) The ability to tailor the investigation to specific evidentiary and prosecutorial needs.
- (U) Publicity of a successful UCO, which may deter future criminal activity.

(U) For more information regarding UCOs, see Sections 3.1.2 through 3.1.5 of this PG and the

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4.5.3. (U) Transactions that Involve the Use of a UCE

4.5.3.1. (U) Money Laundering Transactions Under \$1 Million Dollars in Total

- (U) Obtain approval by EC from the SAC or ADIC.
- (U) Provide a copy of the approved EC to AF/MLU (for information only).

4.5.3.2. (U) Money Laundering Transactions Under \$1 Million Dollars and UCE Will Engage in More Than Five Separate Substantive Contacts with Subjects

- (U) Obtain authority for a Group II UCO, unless a sensitive circumstance makes the investigation a Group I UCO.
- (U) Obtain oral concurrence, followed by an official EC from the appropriate FBIHQ operational unit, based on case classification.
- (U) Obtain concurrence by EC from the SAC or ADIC.
- (U) Provide a copy of the approved EC to AF/MLU for information only.

4.5.3.3. (U) Transactions in Excess of \$1 Million Dollars in Total

- (U) Obtain authority for a Group I UCO.
- (U) Consult with the appropriate FBIHQ operational unit regarding the planned UCO.
- (U) Prepare a Group I UCO proposal. The proposal must include:
 - A background of the investigation.
 - (U) The objectives of, and need for, the UCO.
 - (U) The subjects and predication.
 - (U) A detailed explanation of the proposed UCO's transactions and methods.
 - (U) The CHSs/UCes to be used.
 - (U) The international aspects, if any.
 - (U) The sensitive circumstances that apply.
 - (U) A proposed budget (see the FGUSO for additional details).
- (U) Provide the appropriate operational unit and AF/MLU with copies of the completed proposal. The appropriate operational unit will present the proposal to the CUORC for approval.

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4.5.4. (U) Investigations/Transactions That Involve the Use of a CHS

4.5.4.1. (U) Without a Group I or Group II UCO:

- (U) Obtain authorization from the field office SAC or ADIC.
- (U) Provide informational copies to AF/MLU of all reports regarding money laundering transactions.

4.5.4.2. (U) With a Group I or Group II UCO:

(U) If the UCO is currently active, no further authorization is required, provided the approved money laundering cap has not been exceeded.

4.6. (U) Requesting Exemption for Money Laundering Transactions with Terrorist Organizations

- (U) Submit an EC to the appropriate operational unit based on case classification and include the following information:
 - (U) An explanation of the investigative need to conduct the transaction and the reason for it.
 - (U) An explanation as to why other investigative methods are insufficient.
 - (U) The costs/benefits of engaging in such transactions.
 - (U) The potential issues and liabilities to the FBI of engaging in such transactions.
 - (U) The estimated risks to third parties and U.S. citizens.
 - (U) Confirmation of authority of the CHS/UCE to engage in such undercover activity pursuant to the AGG-Dom.
 - (U) Written concurrence from the United States Attorney's Office.
 - (U) Written approval from the Assistant Attorney General (AAG), Criminal Division, DOJ, pursuant to the AGG-Dom.

(U) If the proposed transaction involves funds of a drug trafficking organization and the Department of the Treasury's OFAC has issued an order to block such transaction, the following additional information is needed:

- (U) Concurrence from OFAC.
- (U) Authority from the AG; ultimate approval must be determined by the Director of the FBI.

4.7. (U) Submission of

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- (U) Obtain SAC or designated ASAC certification that the case is a terrorism or significant money laundering matter, and that all other financial leads have been exhausted.

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4.9. (U) Traditional Interviews

(U) Interviews can be classified as non-confrontational or confrontational. The following are brief explanations of both:

4.9.1. (U) Non-confrontational

(U) Non-confrontational interviews typically involve cooperative individuals who were not involved in the crime under investigation and have no ties to the subject. At the institutional level, this may include corporate employees, bank or post office personnel, and representatives of money services businesses, casinos, or other financial service providers. Other individuals who are typically non-confrontational are those who witnessed a particular event, but had no involvement in the criminal incident and have no relationship to the subject. Non-confrontational interviews in money laundering cases can be conducted to confirm the identity of an individual who engaged in a particular bank transaction or series of transactions; to confirm the identities of other individuals associated with the subject; and to clarify any observed suspicious behavior.

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4.9.2. (U) Confrontational

(U) Confrontational interviews generally involve individuals who were, or may have been, involved in the money laundering or underlying criminal scheme, are friendly with the subject, or, even though not involved in the crime, have a general dislike or distrust of law enforcement. Confrontational interviews can be productive, if conducted properly. Individuals involved in the crime under investigation or who know the subject can potentially provide firsthand accounts of conversations regarding the scheme and generate new leads. In addition, such interviews may lead to the development of CHSs, which can be the catalyst for a more proactive undercover approach.

4.10. (U) Subpoenas

(U) The following types of subpoenas are commonly used in money laundering cases: (1) federal grand jury subpoenas, which are issued and returnable to the AUSA acting on behalf of the grand jury; (2) trial subpoenas, which may be issued by the AUSA or the court and are returnable to the clerk of the court; (3) administrative subpoenas, which may be issued by the SSA of an organized crime or drug squad or by a supervisory senior resident agent (SSRA), and are returnable to the FBI; and (4) regulatory subpoenas, which are issued by independent agencies such as the SEC and CTFC and are returnable to those agencies. With respect to each of these types of subpoenas, the goal is to request all relevant records while minimizing the risk that material might be produced beyond that which is relevant to the investigation. AF/MLU can provide samples of subpoena riders that will accomplish this.

(U) It must also be noted that, with respect to federal grand jury subpoenas, Federal Rule of Criminal Procedure 6(e) provides restrictions on persons with whom subpoenaed materials may be shared. The AUSA must be advised of all agents, analysts, contractors, or others involved in the investigation in order to approve their participation and issue a 6(e) letter to each member of the investigative team.

(U) Agents must comply with the Right to Financial Privacy Act when using administrative subpoenas for records from financial institutions.

4.11. (U) Ex-Parte Orders

(U) Ex-parte orders can be used to obtain tax records for an individual or entity. Tax records offer a significant amount of information that can support money laundering allegations because criminals generally do not report their illicit income to the IRS. In spite of the fact that their income may have been illegally obtained, launderers are still required to report the income on their tax returns or face possible tax evasion charges. A review of tax records, in relation to the subject's lifestyle, may indicate that the subject failed to report income because it was illegally derived. For example, if the subject lived in, and exercised control over a home worth \$1 million dollars, yet only reported income of \$35,000 on his most recent tax return, assuming no significant appreciation in the home, this would likely indicate some other concealed source of income. Ex-parte orders

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can be obtained by submitting an application to the court. It is a common misconception that the IRS is needed for this purpose.

(U) The application for the ex-parte order is similar to an affidavit filed by an agent in support of a complaint, arrest, or seizure warrant. It must set forth reasonable cause that: (1) a federal violation has been committed; and (2) the tax returns will provide the most probative form of evidence. The tax return does not have to be the only means of acquiring this evidence. For example, in a case where there is probable cause to believe that a subject is using shell companies to launder money, it is possible that mail covers or a Title III would reveal some of this evidence, but the tax returns would be the most probative, as they would likely contain IRS Form 1099 statements and lists of companies from which the subject received income. The agent must swear to the contents of the affidavit in front of a district court judge (magistrates do not have authority to enter an ex-parte tax return order). Once the order has been signed by the judge, the agent serves the order on the IRS facility designated for compliance in that district. In some districts, the order will require the tax returns to go back to the judge for review, after which the judge will provide them to the AUSA if they are determined to be relevant to the investigation. In other districts, the order will require the IRS to provide the records directly to the AUSA. As with any case where taxpayer information is involved, federal law requires that only persons working on the investigation be permitted to view the returns. In the event that copies are placed in an FBI file, there must be a cover EC or FD-302 captioned with the appropriate "taxpayer information" notation, which is available in either the EC or FD-302 macros.

4.12. (U) Mutual Legal Assistance Treaty and Letters Rogatory

(U) Similar to subpoenas, MLATs can be used to obtain records or information from foreign jurisdictions. MLATs are contractual obligations between countries and create routine channels for obtaining a broad range of legal assistance on criminal matters. The type of assistance that can be obtained by MLATs includes taking testimony or statements of persons, obtaining documents and other physical evidence in a form admissible at trial, and executing searches and seizures. The amount of assistance that is available varies by treaty and is subject to the intricacies of each country's law. The best way to handle a situation where an MLAT is being contemplated is to call the DOJ OIA at 202-514-0000. OIA has attorneys assigned for each country in order to provide expert advice on the likelihood of accomplishing the purpose of the MLAT in the necessary time period. OIA makes the official MLAT request on behalf of the United States. Agents seeking to submit an MLAT request must contact OIA at the earliest possible opportunity. Where the United States has no MLAT with a country, Letters Rogatory can be used; however, recipient countries have no obligation to comply with the Letters Rogatory, and the process can be lengthy. OIA will also provide advice on Letters Rogatory, as the procedures for obtaining Letters Rogatory will vary depending on the country involved.

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4.13. (U) Physical Surveillance

(U) Physical observation can help the investigator determine a subject's day-to-day pattern of activity. Such patterns can reveal, for example, the identities of individuals with whom the subject meets on a daily basis, or whether the subject makes frequent visits to grocery stores or gas stations that are often used to transmit illicit funds. Surveillances must be viewed as opportunities to develop intelligence, leads on additional subjects and/or corrupt businesses, and evidence of the crime under investigation.

4.14. (U) Records Checks

(U) Records checks provide background information on subjects and their businesses that can be used to an investigator's advantage. The checks may consist of arrest and criminal histories; Automated Case Support (ACS) checks; and Internet and public database searches including bankruptcy filings, deeds, judgments/liens, property tax records, voter registrations, building permits, and corporate/business records. Records can provide additional details on subjects in terms of their levels of risk; current and prior residences; marital and immigration statuses; and current and prior employer information. In addition, information obtained through records searches can facilitate the identification of a subject's assets for the purpose of forfeiture. Databases that are available to FBI agents include [REDACTED] and

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(4) Dun and Bradstreet.

(U) The information obtained must be used to assess the subject's criminal capabilities, possible criminal intent and motivation, and any weak links that the investigator could exploit. Weak links may include a bitter ex-spouse or ex-employer, pending or past lawsuits to which the subject was a defendant, and failed businesses or bankruptcies.

4.15. (U) Other

(U) Other investigative methods such as [REDACTED] can be used, depending on the needs of a particular investigation. The requirements for each of these methods are set forth in the DIOG, Section 11.

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4.16. (U) Financial Analysis

(U) Financial analysis is a necessary and often critical tool in successful money laundering investigations. Laundering is a crime involving illicit money; therefore, knowing where the money is at any given time, and the path it took to get there, may be the most important information to present to a jury. The process begins with obtaining records from financial institutions, including all financial transactions related to the crime. When the investigating agent has specific account information, records can be obtained by sending subpoenas to institutions in the United States or MLAT/Letters Rogatory to institutions in foreign jurisdictions. When the investigator does not have specific account information, it may be obtained through USA PATRIOT Act 314(a) or Egmont requests. (See Section 4.5 of this PG for additional details.)

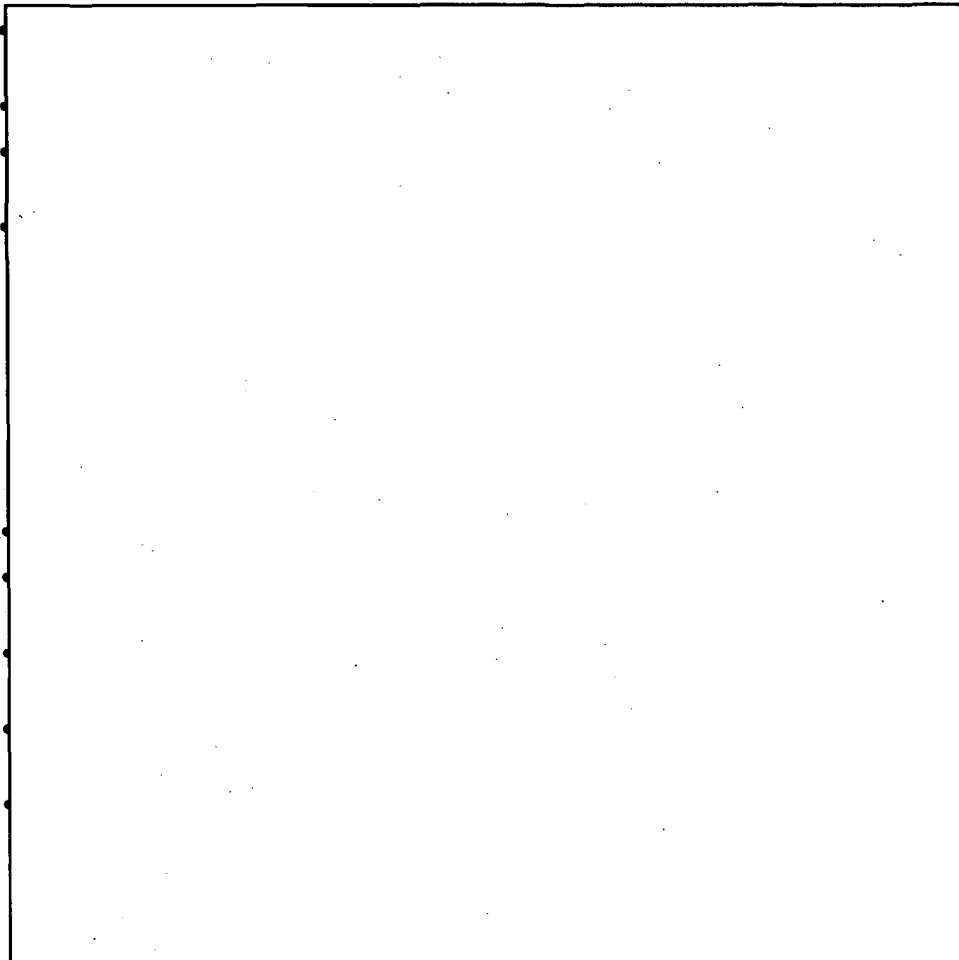
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(U) Once the records have been received, their contents must be placed in a format that allows the investigator or financial analyst to sort and test the data more easily. In the absence of more sophisticated analytical tools, spreadsheet or database software packages such as Microsoft Excel or Access can be used for this purpose. Case agents must consult with an experienced financial analyst to determine the best analytical tool and data format for their particular investigative needs:

(U) Additional information regarding the use of below.

4.16.1. (U) Obtaining and Analyzing Financial Records



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- (U) Obtain additional underlying documentation necessary to illustrate that assets continue to be under the control of the subject(s).
- (U) See the DIOG, Section 11.

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5. (U) Recordkeeping Requirements

5.1. (U) Statistical Reporting for All Money Laundering Investigations

(U) At the completion of a money laundering investigation, a statistical record must be made in the accomplishment section of the FD-515. This reporting must be made regardless of whether the case is classified as a 272 or whether the subjects were charged with a money laundering violation.

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6. (U) Summary of Legal Authorities

(U) Included in the Anti-Drug Abuse Act of 1986 (and its amendments of 1988) are money laundering statutes that have a wide range of applications for many FBI cases. Violations of money laundering laws are usually tied to other criminal activities, ranging from the various RICO predicates, drugs, bank fraud, terrorism, espionage, etc.

6.1. (U) Primary Money Laundering Statutes

- (U) 18 U.S.C. § 1956 - Laundering of monetary instruments.
- (U) 18 U.S.C. § 1957 - Engaging in monetary transactions in property derived from specific unlawful activity.

6.2. (U) Related Criminal Statutes

- (U) 18 U.S.C. § 1960 - Prohibition of unlicensed money-transmitting businesses.

6.3. (U) Companion Forfeiture Statutes

- (U) 18 U.S.C. § 981 - Civil forfeiture.
- (U) 18 U.S.C. § 982 - Criminal forfeiture.

(U) In addition, the PATRIOT Act of 2001 expanded money laundering and companion violations and enhanced law enforcement's ability to investigate money laundering activity. The following represent the most relevant sections of the PATRIOT Act with regard to money laundering and terrorist financing activity:

- (U) Section 312: Necessary controls for correspondent accounts.
- (U) Section 313: Prohibiting business with foreign shell banks.
- (U) Section 314 (a): Information sharing with law enforcement.
- (U) Section 314 (b): Information sharing among financial institutions.
- (U) Section 315: Foreign crimes as specified unlawful activities.
- (U) Section 319: Treatment of interbank/correspondent accounts.
- (U) Section 371: Bulk cash smuggling.
- (U) Section 372: Currency reporting offenses.
- (U) Section 373: Illegal money transmitting businesses.
- (U) Section 405: Dependent/parallel transactions.
- (U) Section 813: Terrorist activity as RICO predicate offenses.

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6.4. (U) Federal Regulations

- (U) Currency and Foreign Transactions Reporting Act.

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(U) Appendix A: Legal Authorities

1. (U) 18 U.S.C. § 1956 - Laundering of Monetary Instruments

(U) (a)(1) - Financial Transaction Provision

(U) Part (A)(i) is directed toward situations where the financial transaction involves illegal proceeds that are used to promote criminal activity (e.g., illegal proceeds used to purchase drugs or smuggle money in support of terrorist activities).

(U) Part (A)(ii) is directed toward situations where the financial transaction involves an intent to commit tax fraud or evasion.

(U) Part (B)(i) is directed toward situations where the financial transaction involves illegal proceeds that are used to conceal the nature, location, source, ownership, or control of the proceeds (e.g., the subject places the illegal proceeds into a "legitimate" business in order to make the subject's wealth appear legitimate).

(U) Part (B)(ii) is directed toward situations where the financial transaction is designed to avoid or attempt to avoid state or federal reporting requirements (e.g., a subject directs others [smurfs] to buy cashier's checks with illegal proceeds in amounts less than \$10,000 to avoid Currency Transaction Reporting requirements).

(U) (a)(2) - International Transfer Provision (Transport, Transmit, or Transfer Funds)

(U) Part (A) is directed toward situations where funds or monetary instruments are being moved into or out of the United States with the intent to promote an illegal activity (e.g., the proceeds are moved out of the United States to buy drugs or support of terrorist activities).

(U) Part (B)(i) is directed toward situations where illegal funds or monetary instruments are moved into or out of the United States in order to conceal the nature, source, etc., of the illegal proceeds (e.g., the subject moves or transmits an illegal monetary instrument to an offshore account or business in order to conceal or legitimize the money).

(U) Part (B)(ii) is directed toward situations where illegal funds are moved into or out of the United States in order to avoid a state or federal transaction reporting requirement (e.g., subject moves the illegal funds out of the United States in amounts greater than \$10,000 and does not file the appropriate Currency and Monetary Instrument Report).

(U) Penalties: 18 U.S.C. § 1956 (a)(1) and (2)

- (1) (U) The criminal penalty for a violation of either Subsection (a)(1) or (a)(2) of § 1956 is a maximum fine of \$500,000, or twice the value of the monetary instruments or funds involved, whichever is greater, or imprisonment for not more than 20 years or both.
- (2) (U) Violators of Subsections 1956(a)(1) and (a)(2) are also liable to the United States for a civil penalty of not more than the greater of the value of the property;

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funds; or monetary instruments involved in the transaction, or \$10,000. Such civil penalty is intended to be imposed in addition to any fine imposed for the criminal offense.

- (3) (U) For adjudication or enforcement purposes, the district courts have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the county in which the foreign person is found, and:
- (a) (U) The foreign person commits a money laundering offense under 18 U.S.C. § 1956(a) involving a financial transaction that occurs in whole or in part in the United States.
 - (b) (U) The foreign person converts to his or her own use property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States.
 - (c) (U) The foreign person is a financial institution that maintains a bank account at a financial institution in the United States. Any district court may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under 18 U.S.C. § 1956(b). To accomplish this, district courts may appoint a federal receiver to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a civil judgment under § 1956, a forfeiture judgment, or a criminal fine under 18 U.S.C. §§ 1956(a) or 1957, including an order of restitution to any victim of an SUA. A federal receiver may be appointed, upon application of a federal prosecutor or a federal or state regulator, by the court having jurisdiction of the defendant in the case. A federal receiver is an officer of the court, and the powers of the federal receiver include the powers enumerated in 28 U.S.C. § 754, as well as standing equivalent to a federal prosecutor for the purposes of submitting requests to obtain information regarding the assets of the defendant from FinCEN of the Department of the Treasury, or from a foreign country pursuant to a Mutual Legal Assistance Treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.
- (4) (U) It should also be noted that the forfeiture provisions of this act (See 18 U.S.C. § 981 and 982) may be applied in addition to civil and criminal penalties. (See *Forfeiture PG* for additional information regarding civil and criminal forfeiture.) Thus, a person who violates § 1956 by laundering \$250,000 might have the funds civilly forfeited, be subject to a fine of up to \$500,000 if convicted of the criminal

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offense, and pay a civil penalty of another \$250,000. For payment of the criminal fine and civil penalty, the government may look to other assets of the defendant who is not involved in the offense.

(U) (a)(3) – Sting Provision, also known as Reverse Money Laundering Transaction

A. (U) This subsection of the money laundering statute penalizes financial transactions involving the covert use of government funds or property, which is represented to be the proceeds of an SUA, when those financial transactions are conducted or attempted with the intent to:

- i. (U) Promote an SUA.
- ii. (U) Conceal the nature of funds or property believed to be the proceeds of an SUA.
- iii. (U) Avoid a transaction reporting requirement under state or federal law.

B. (U) Funds or property are represented to be proceeds when the representation is made by a law enforcement officer or other person (e.g., CHS) acting at the direction of a law enforcement officer.

(U) Penalties: 18 U.S.C. § 1956(a)(3)

(U) Maximum of 20 years imprisonment or a fine under Title 18 or both.

2. (U) 18 U.S.C. § 1957 - Engaging in Monetary Transactions in Property Derived from SUA

(U) This section is generally designed to address a subject who knowingly engages or attempts to engage in a monetary transaction involving criminally derived property greater than \$10,000 and has been derived from SUA [REDACTED]

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(U) Penalties: 18 U.S.C. § 1957

(U) Maximum of ten years imprisonment or a fine under Title 18 or twice the amount of the criminally derived property involved in the transaction or both.

(U) 18 U.S.C. §§ 1956/1957 Statute Definitions

1. (U) "Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" (as in 18 U.S.C. § 1956 (c) (1)) means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state or federal law, regardless of whether or not such activity is specifically defined as an SUA.

2. (U) The term "conducts" (as in 18 U.S.C. § 1956 (c) (2)) includes initiating, concluding, or participating in initiating or concluding a transaction.

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3. (U) The term "transaction" (as in 18 U.S.C. § 1956 (c) (3)) includes a purchase; sale; loan; pledge; gift transfer; delivery; or other disposition, and with respect to a financial institution includes a deposit; withdrawal; transfer between accounts; exchange of currency; loan, extension of credit; purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument; use of a safe deposit box; or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.
4. (U) "Financial transaction" (as in 18 U.S.C. § 1956 (c) (4)) means a transaction that in any way or degree affects interstate or foreign commerce (1) involving the movement of funds by wire or other means, (2) involving one or more monetary instruments, or (3) involving the transfer of title to any real property, vehicle, vessel, or aircraft; or means a transaction involving the use of a financial institution that is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.
5. (U) "Monetary instruments" (as in 18 U.S.C. § 1956 (c) (5)) means coin or currency of the United States or of any other country, traveler's checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.
6. (U) The term "financial institution" (as in 18 U.S.C. § 1956 (c) (6)) includes any financial institution, as defined in 31 U.S.C. § 5312(a) (2), and any foreign bank as defined in 12 U.S.C. § 3101. The following is a list of "financial institutions":
- (a) (U) An insured bank of the Federal Deposit Insurance Act.
 - (b) (U) A commercial bank or trust company.
 - (c) (U) A private banker.
 - (d) (U) An agency or branch of a foreign bank in the United States.
 - (e) (U) Any credit union.
 - (f) (U) A thrift institution.
 - (g) (U) A broker or dealer registered with the Securities and Exchange Commission.
 - (h) (U) A broker or dealer in securities or commodities.
 - (i) (U) An investment banker or investment company.
 - (j) (U) A currency exchange.
 - (k) (U) An issuer, redeemer, or cashier of traveler's checks, checks, money orders, or similar instruments.
 - (l) (U) An operator of a credit card system.

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- (m)(U) An insurance company.
- (n) (U) A dealer in precious metals, stones, or jewels.
- (o) (U) A pawnbroker.
- (p) (U) A loan or finance company.
- (q) (U) A travel agency.
- (r) (U) A licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.
- (s) (U) A telegraph company.
- (t) (U) A business engaged in vehicle sales, including automobile, airplane, and boat sales.
- (u) (U) Persons involved in real estate closings and settlements.
- (v) (U) The U.S. Postal Service.
- (w)(U) An agency of the U.S. Government or of a state or local government arriving out a duty or power of a business (described in this paragraph).
- (x) (U) A casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 and is licensed as a casino under the laws of any state or any political subdivision of any state or is an Indian gaming operation.
- (y) (U) Any business or agency that engages in any activity that the Secretary of the Treasury determines, by regulation, to be an activity that is similar to, related to, or a substitute for any activity in which any business (described in this paragraph) is authorized to engage.
- (z) (U) Any other business (designated by the Secretary of the Treasury) whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.
- (aa) (U) Any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands that engages in the business of banking, or any subsidiary or affiliate organized under such laws of any such country. This includes, without limitation, foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usually in connection with the business of banking in the countries where such foreign institutions are organized or operating (12 U.S.C. § 3101(7)).

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7. (U) "Represented" (as in 18 U.S.C. § 1956(a)(3)) means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a federal official authorized to investigate or prosecute violations of 18 U.S.C. § 1956 (a) (3).
8. (U) "Monetary transaction" (as in 18 U.S.C. § 1957 (f) (1)) means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument by, through, or to a financial institution, but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment to the Constitution.
9. (U) "Criminally derived property" (as in 18 U.S.C. § 1957 (f) (2)) means any property constituting or derived from proceeds obtained from a criminal offense.
10. (U) "SUA" (as in 18 U.S.C. § 1956) means:
- (a) (U) Any act or activity constituting an offense listed in 18 U.S.C. § 1961(1), except an act which is indictable under Subchapter II or Chapter 53 of Title 31.
 - (b) (U) With respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as in 21 U.S.C.); drug-type offenses; murder, kidnapping, robbery, extortion, destruction of property by means of explosive or fire, or a crime of violence (as defined in 18 U.S.C. § 16); a fraud or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of Section 1(b) of the International Banking Act of 1978); bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official; smuggling or export control violations involving an item controlled on the U.S. Munitions List established under Section 38 of the Arms Export Control Act (22 U.S.C. § 2778), or an item controlled under regulations under the Export Administration Regulations (Title 15, C.F.R., Parts 730-774); or an offense with respect to a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender was found in the United States.
 - (c) (U) Any act or acts constituting a continuing criminal enterprise (21 U.S.C. § 848).
 - (d) (U) An offense under the following:

Citation	SUA
18 U.S.C. § 32	Relating to the destruction of aircraft.
18 U.S.C. § 37	Relating to violence at international airports.

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Citation	SUA
18 U.S.C. § 115	Relating to influencing, impeding, or retaliating against a federal official by threatening or injuring the official's family members.
18 U.S.C. § 152	Relating to concealment of assets; false oaths and claims; or bribery.
18 U.S.C. § 215	Relating to commissions or gifts for procuring loans.
18 U.S.C. § 351	Relating to congressional or cabinet officer assassination.
18 U.S.C. §§ 500 - 503	Relating to certain counterfeiting offenses.
18 U.S.C. § 513	Relating to securities of states and private entities.
18 U.S.C. § 541	Relating to goods falsely classified.
18 U.S.C. § 542	Relating to entry of goods by means of false statements.
18 U.S.C. § 545	Relating to smuggling goods into the United States.
18 U.S.C. § 549	Relating to removing goods from U.S. Customs custody.
18 U.S.C. § 641	Relating to public money, property, or records.
18 U.S.C. § 656	Relating to theft, embezzlement, or misapplication by a bank officer or employee.
18 U.S.C. § 657	Relating to lending and credit and insurance institutions.
18 U.S.C. § 658	Relating to property mortgaged or pledged to farm credit agencies.
18 U.S.C. § 666	Relating to theft or bribery concerning programs receiving federal funds.

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Citation	SUA
18 U.S.C. §§ 793, 794, or 798	Relating to espionage.
18 U.S.C. § 831	Relating to prohibited transactions involving nuclear materials.
18 U.S.C. § 844(f) or (i)	Relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce.
18 U.S.C. § 875	Relating to interstate communications.
18 U.S.C. § 922(1)	Relating to the unlawful importation of firearms.
18 U.S.C. § 924(n)	Relating to firearms trafficking.
18 U.S.C. § 956	Relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country.
18 U.S.C. § 1005	Relating to bank fraud and embezzlement.
18 U.S.C. § 1006	Relating to fraudulent credit institution entries.
18 U.S.C. § 1007	Relating to fraudulent Federal Deposit Insurance Corporation transactions.
18 U.S.C. § 1014	Relating to fraudulent loan or credit applications.
18 U.S.C. § 1030	Relating to computer fraud and abuse.
18 U.S.C. § 1032	Relating to concealment of assets from a conservator, receiver, or liquidating agent of a financial institution.
18 U.S.C. § 1111	Relating to murder.
18 U.S.C. § 1114	Relating to the murder of U.S. law enforcement officials.
18 U.S.C. § 1116	Relating to murder of foreign officials, official guests, or internationally protected persons.

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Citation	SUA
18 U.S.C. § 1201	Relating to kidnapping.
18 U.S.C. § 1203	Relating to hostage taking.
18 U.S.C. § 1361	Relating to willful injury of government property.
18 U.S.C. § 1363	Relating to destruction of property within the special maritime and territorial jurisdiction.
18 U.S.C. § 1708	Relating to theft from the mail.
18 U.S.C. § 1751	Relating to Presidential assassination.
18 U.S.C. §§ 2113 or 2114	Relating to bank and postal robbery and theft.
18 U.S.C. § 2280	Relating to violence against maritime navigation.
18 U.S.C. § 2281	Relating to violence against maritime fixed platforms.
18 U.S.C. § 2319	Relating to copyright infringement.
18 U.S.C. § 2320	Relating to trafficking in counterfeit goods or services. (FBI)
18 U.S.C. § 2332	Relating to terrorist acts abroad against U.S. nationals.
18 U.S.C. § 2332a	Relating to use of weapons of mass destruction.
18 USC § 2332b	Relating to international terrorist acts transcending national boundaries.
18 U.S.C. §§ 2339A and 2339B	Relating to providing material support to terrorists.
19 U.S.C. § 1590	Relating to aviation smuggling.
49 U.S.C. § 46502	Relating to aircraft piracy.
Chemical Diversion and Trafficking Act of 1988	A felony violation relating to precursor and essential chemicals.

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Citation	SUA
Section 15 of the Food Stamp Act of 1977	Relating to Food Stamp Fraud involving a quantity of coupons having a value of not less than \$5,000. (FBI)
21 U.S.C. § 863, Controlled Substance Act	Relating to transportation of drug paraphernalia.
Section 38(c) of the Arms Export Control Act (22 U.S.C. § 2778)	Relating to criminal violations.
Section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410)	Relating to violations.
Section 206 of the International Emergency Economic Powers Act (50 U.S.C. §1702)	Relating to penalties.
Section 16 of the Trading with the Enemy Act (50 U.S.C. App. 3)	Relating to offenses and punishment.
33 U.S.C. § 1251 et seq.	Felony offenses relating to the discharge of pollutants into the Nation's waters.
33 U.S.C. § 1401 et seq.	Felony offenses relating to the dumping of materials into ocean waters.
33 U.S.C. § 1901 et seq.	Felony offenses relating to the discharge of pollutants from ships.
42 U.S.C. § 300f et seq.	Felony offenses related to the safety of public water systems.
42 U.S.C. § 1490s(a)(1)	Relating to equity skimming.
Foreign Agents Registration Act of 1938	Any felony violation of the act.

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Citation	SUA
Foreign Corrupt Practice Act	Any felony violation of the act.
18 U.S.C. §§ 669, 1035, 1347, and 1518	Any act or activity constituting an offense involving a federal health care offense.
42 U.S.C. § 6901 et seq.	Felony offenses relating to resource conservation and recovery.

(e) (U) Any act or activity constituting one of the predicate offenses to the Racketeer Influenced and Corrupt Organizations Act (18, U.S.C. § 1961(1)) except an act which is indictable under the Currency and Foreign Transactions Reporting Act. These offenses are as follows:

1. (U) Any act or threat involving:

- (U) Murder.
- (U) Kidnapping.
- (U) Gambling.
- (U) Arson.
- (U) Robbery.
- (U) Bribery.
- (U) Extortion.
- (U) Dealing in obscene matter.
- (U) Dealing in a controlled substance or listed chemical (as defined in Section 102 of the Controlled Substances Act), which is chargeable as a state felony.

2. (U) Any act which is indictable under any of the following:

Citation	SUA
18 U.S.C. § 201	Relating to bribery.
18 U.S.C. § 224	Relating to sports bribery.
18 U.S.C. §§ 471-473	Relating to counterfeiting.
18 U.S.C. § 659	Relating to theft from interstate shipment if the act indictable under 18 U.S.C. § 659 is

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Citation	SUA
	felonious.
18 U.S.C. § 664	Relating to embezzlement from pension and welfare funds.
18 U.S.C. §§ 891-894	Relating to extortionate credit transactions.
18 U.S.C. § 1028	Related to fraud and related activity in connection with identification documents.
18 U.S.C. § 1029	Relating to fraud and related activity in connection with access devices.
18 U.S.C. § 1084	Relating to the transmission of gambling information.
18 U.S.C. § 1341	Relating to mail fraud.
18 U.S.C. § 1343	Relating to wire fraud.
18 U.S.C. § 1344	Relating to financial institution fraud.
18 U.S.C. § 1425	Relating to the unlawful procurement of citizenship or naturalization.
18 U.S.C. § 1426	Relating to the reproduction of naturalization or citizenship papers.
18 U.S.C. § 1427	Relating to the sale of naturalization or citizenship papers.
18 U.S.C. §§ 1461-1465	Relating to obscene matter.
18 U.S.C. § 1503	Relating to obstruction of justice.
18 U.S.C. § 1510	Relating to obstruction of criminal investigations.
18 U.S.C. § 1511	Relating to the obstruction of state or local law enforcement.
18 U.S.C. § 1512	Relating to tampering with a witness,

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Citation	SUA
	victim, or an informant [CHS].
18 U.S.C. § 1513	Relating to retaliating against a witness, victim, or an informant [CHS].
18 U.S.C. § 1542	Relating to false statement in application and use of passport.
18 U.S.C. § 1543	Relating to forgery or false use of passport.
18 U.S.C. § 1544	Relating to misuse of passport.
18 U.S.C. § 1546	Relating to fraud and misuse of visas, permits, and other documents.
18 U.S.C. §§ 1581-1588	Relating to peonage and slavery.
18 U.S.C. § 1951	Relating to interference with commerce, robbery, or extortion.
18 U.S.C. § 1952	Relating to racketeering.
18 U.S.C. § 1953	Relating to interstate transportation of wagering paraphernalia.
18 U.S.C. § 1954	Relating to unlawful welfare fund payments.
18 U.S.C. § 1955	Relating to the prohibition of illegal gambling business.
18 U.S.C. § 1956	Relating to the laundering of monetary instruments.
18 U.S.C. § 1957	Relating to engaging in monetary transactions in property derived from SUA.
18 U.S.C. § 1958	Relating to use of interstate commerce facilities in the commission of murder-for-hire.
18 U.S.C. §§ 2251, 2251A,	Relating to sexual exploitation of children.

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Citation	SUA
2252, and 2260	
18 U.S.C. §§ 2312 and 2313	Relating to interstate transportation of stolen motor vehicles.
18 U.S.C. §§ 2314 and 2315	Relating to interstate transportation of stolen property.
18 U.S.C. § 2318	Relating to trafficking in counterfeit labels for phonorecords; computer programs or computer program documentation; or packaging and copies of motion pictures or other audiovisual works.
18 U.S.C. § 2319	Relating to criminal infringement of a copyright.
18 U.S.C. § 2319A	Relating to unauthorized fixation of, and trafficking in, sound recordings and music videos of live musical performances.
18 U.S.C. § 2320	Relating to trafficking in goods or services bearing counterfeit marks.
18 U.S.C. § 2321	Relating to trafficking in certain motor vehicles or vehicle parts.
18 U.S.C. §§ 2341-2346	Relating to trafficking in contraband cigarettes.
18 U.S.C. §§ 2421-2424	Relating to white slave traffic.

3. (U) Any act which is indictable under:
 - (U) 29 U.S.C. § 186 (dealing with restrictions on payments and loans to labor organizations).
 - (U) 29 U.S.C. § 501(c) (relating to embezzlement from union funds).
4. (U) Any offense involving fraud connected with a case under Title 11 (except a case under § 157 of this title); fraud in the sale of securities; or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in

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Section 102 of the Controlled Substances Act), punishable under any law of the United States.

5. (U) Any act that is indictable under the Currency and Foreign Transaction Reporting Act, 31 U.S.C. § 5311 et seq.
6. (U) Any act that is indictable under the Immigration and Naturalization Act, Section 274 (relating to bringing in or harboring certain aliens), § 277 (relating to aiding or assisting certain aliens to enter the United States), or § 278 (relating to importation of an alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, 18 U.S.C. § 2421 et seq.
7. (U) Any act that is indictable under any provision listed in 18 U.S.C. § 2332b (g)(5)(B).

(U) NOTE: The investigatory jurisdiction for money laundering violations is shared by numerous federal law enforcement agencies and is set forth in a Memorandum of Understanding between the DOJ, the Department of the Treasury, and the United States Postal Service, which is set forth in Appendix C. Generally, this jurisdiction is determined by the particular SUA(s) involved. For further information regarding money laundering jurisdiction, see Section 3.5 of this PG.

(U) Venue

- (1) (U) Except as provided in the next paragraph, a prosecution for an offense under 18 U.S.C. §§ 1956 or 1957 may be brought in any district in which the financial or monetary transaction is conducted, or any district where a prosecution for the underlying SUA could be brought, if the defendant participated in the transfer of the proceeds of the SUA from that district to the district where the financial or monetary transaction is conducted.
 - (2) (U) A prosecution for an attempt or conspiracy offense under 18 U.S.C. §§ 1956 or 1957 may be brought in the district where venue would lie for the completed offense under the previous paragraph, or in any other district where an act in furtherance of the attempt or conspiracy took place.
 - (3) (U) For purposes of 18 U.S.C. § 1956, a transfer of funds from one place to another, by wire or any other means, constitutes a single, continuing transaction. Any person who conducts (as that term is defined in 18 U.S.C. § 1956(1)(2)) any portion of the transaction may be charged in any district in which the transaction takes place.
- (1) (U) **Unlicensed Money Transmitting Business (18 U.S.C. § 1960)**
 - (2) (U) The International Money Laundering Abatement and Financial Antiterrorism Act of 2001 was incorporated into the PATRIOT Act and was intended to significantly increase the United States' ability to combat the financing of

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terrorism. The scope of 18 U.S.C. §1960 is expanded to include any business, licensed or unlicensed, that involves the movement of funds that the defendant knows were derived from a criminal offense, or were intended to be used "to promote or support unlawful activity." It would not be necessary for the government to show that the business was a storefront or other formal business open to walk-in trade. To the contrary, it would be sufficient to show that the defendant offered his/her services as a money transmitter to another.

- (3) (U) It is already an offense under §§ 1956 and 1957 for any person to conduct a financial transaction involving criminally derived property. Section 1957 has a \$10,000 threshold requirement, while §1956 requires proof of specific intent either to promote another offense or to conceal or disguise the criminal proceeds. On the other hand, § 1960 contains neither of these requirements if the property is criminal proceeds; or alternatively, if there is proof that the purpose of the financial transaction was to commit another offense, it does not require proof that the transmitted funds were tainted by any prior misconduct. Title 18 U.S.C. §§ 981 and 982 contain civil and criminal forfeiture provisions for violations of 18 U.S.C. §§ 1956, 1957, and 1960.
- (4) (U) The following is the full text of Title 18 U.S.C. Section 1960:
 - (a) (U) Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of an unlicensed money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.
 - (b) (U) As used in this section –
 - (1) (U) The term 'unlicensed money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and:
 - (A) (U) Is operated without an appropriate money transmitting license in a state where such operation is punishable as a misdemeanor or a felony under state law, whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable.
 - (B) (U) Fails to comply with the money transmitting business registration requirements under section 5330 of title 31, U.S. Code, or regulations prescribed under such section.
 - (C) (U) Otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity.
 - (2) (U) The term 'money transmitting' includes transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier.

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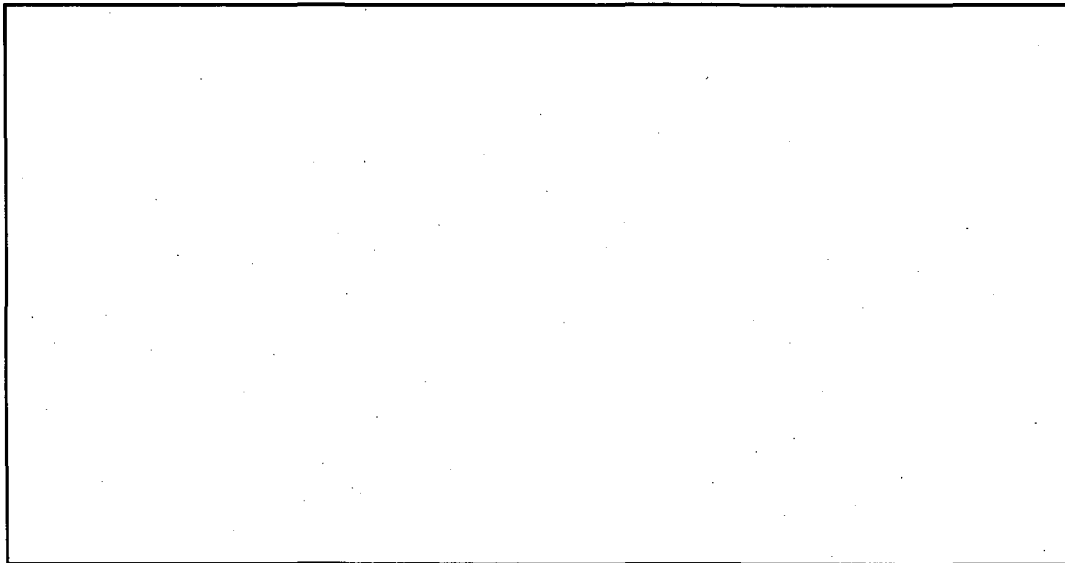
- (3) (U) The term 'State' means any State of the U.S., the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the U.S.

4. (U) Currency and Foreign Transaction Reporting Act

(U) The Currency and Foreign Transactions Reporting Act was enacted in 1970 to regulate depository institutions such as banks, credit unions, and thrifts. The Bank Secrecy Act established requirements for recordkeeping and reporting to identify the origin and movement of cash or other monetary instruments transported or transmitted into or out of the United States or deposited in financial institutions. The BSA requires certain individuals, banks, and other financial institutions to file currency reports with the Department of the Treasury, identify the individuals conducting transactions, and maintain appropriate documentation of financial transactions.

(U) The Money Laundering Control Act (MLCA) of 1986 imposes criminal liability on individuals and financial institutions that knowingly assist in the laundering of money or structure transactions to avoid reporting them. The MLCA required banks to establish and maintain procedures designed to ensure compliance with the requirements of the BSA.

(U) The Suspicious Activity Report was created in 1996 as a means for financial institutions to report known or possible violations of criminal law or the BSA, or suspicious transactions related to money laundering. Filing was deemed mandatory for all entities defined as financial institutions. Since approximately 1990, the definition of financial institutions has been expanded to cover money services businesses, casinos, card clubs, securities firms, the insurance industry, and banks.



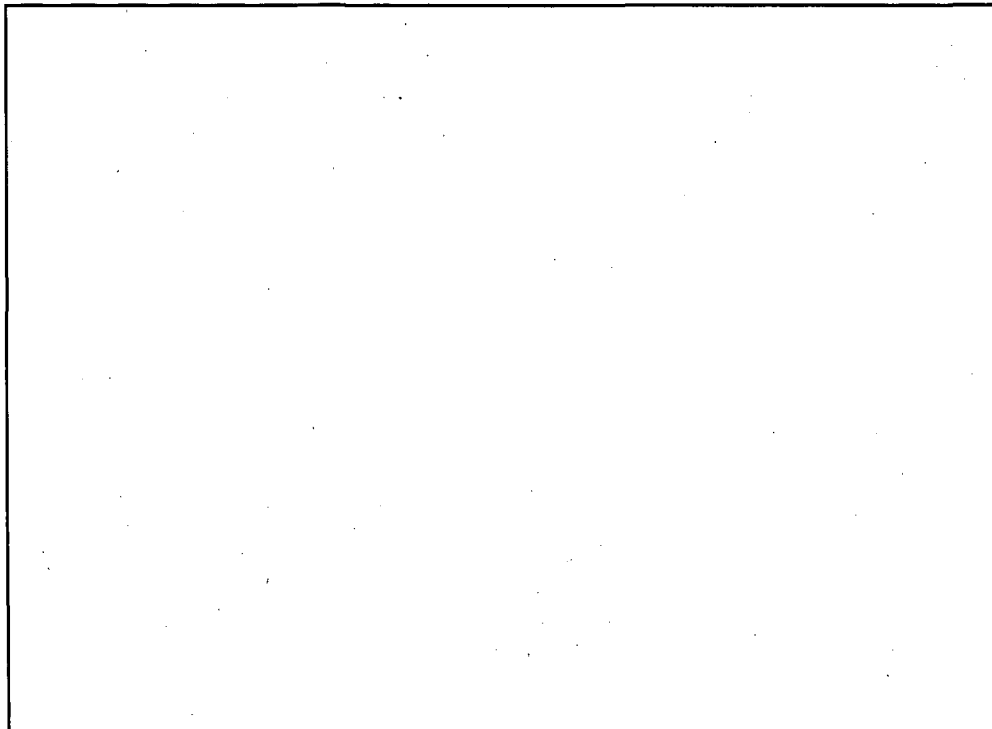
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5. (U) USA PATRIOT Act - Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001

(U) The PATRIOT Act was passed by Congress in response to the terrorist attacks on September 11, 2001. Title III of the Act is the most significant section for both money laundering and terrorist financing, and is known as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001. Among other things, the act made it a crime to finance terrorism and modified the BSA by strengthening customer identification procedures; prohibiting financial institutions from conducting business with foreign shell banks; requiring financial institutions to establish due diligence procedures, to include those for foreign correspondent and private banking accounts; and improving information sharing between financial institutions and the U.S. Government.

(U) In addition, the PATRIOT Act also expanded The Anti-Money Laundering Program requirements to all entities defined as financial institutions; increased civil and criminal penalties for money laundering; provided the Secretary of the Treasury with authority to impose special measures on jurisdictions, institutions, or transactions that are a money laundering concern; facilitated records access and required banks to respond to regulatory requests for information within 120 hours; and required federal banking agencies to consider a bank's AML record when reviewing mergers and acquisitions.

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(U) The following sections of the act represent its most substantive components with regard to money laundering and terrorist financing:

Sec. 312. (U) Special Due Diligence for Correspondent Accounts and Private Banking Accounts

(U) This section requires each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-USPER (United States Person), including a foreign individual visiting the United States or a representative of a non-USPER, establish appropriate, specific, and where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts. The enhanced due diligence policies, procedures, and controls required under paragraph (1) must, at a minimum, ensure that the financial institution in the United States takes reasonable steps to:

- (U) Ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner.
- (U) Conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under subsection (g).
- (U) Ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

Sec. 313. (U) Prohibition on U.S. Correspondent Accounts with Foreign Shell Banks

(U) This section prohibits a financial institution from establishing, maintaining, administering, or managing a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

Sec. 314(a). (U) Cooperative Efforts to Deter Money Laundering

This section provides that financial institutions must query their account holder databases in response to law enforcement requests in significant money laundering and terrorist financing investigations.

Section 314(b). (U) Cooperative Efforts Among Financial Institutions

This section provides that financial institutions may share suspicious activity reports with one another.

Sec. 315. (U) Inclusion of Foreign Corruption Offenses as Money Laundering Crimes

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(U) This section makes the use of proceeds derived from violations of a foreign law, or more specifically, "an offense with respect to which the U.S. would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the U.S." a money laundering offense.

Sec. 319. (U) Forfeiture of Funds in U.S. Interbank Accounts

(U) This section states that, for the purpose of a forfeiture under this section or under the Controlled Substances Act, if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank (correspondent) account in the United States with a covered financial institution, the funds are deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant *in rem* regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

Section 319(b) (U) of the USA PATRIOT Act

(U) This section authorizes the Secretary of the Treasury or the Attorney General to issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States, and to request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank. On September 23, 2002, the AG delegated this authority, pursuant to 31 U.S.C. § 5318(k)(3), to the Assistant Attorney General of the Criminal Division and to the U.S. Attorneys (subject to the approval of the Criminal Division, DOJ).

(U) Service of summons or subpoena - A summons or subpoena issued by the Secretary of the Treasury or the Attorney General may be served on the foreign bank in the United States if the foreign bank has a representative in the United States or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

(U) Other provisions of 31 U.S.C. § 5318 - The law requires domestic financial institutions that maintain correspondent accounts for foreign banks to maintain records identifying the owners of the foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account. In addition, within seven days after receiving a written request from a federal law enforcement officer, the domestic financial institution must provide the identifying information. Finally, a domestic financial institution must terminate any correspondent relationship with a foreign bank no later than ten business days after receiving written notice from the Secretary of the Treasury or the AG (in each case after consultation with the other) that the foreign bank has failed to either to comply with the subpoena or to initiate proceedings to contest it. These new provisions will assist the FBI in obtaining information concerning deposits of funds into foreign banks that have correspondent accounts with U.S. banks, particularly in instances

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where the United States cannot obtain cooperation from other governments or foreign financial institutions.

(U) Use of this new authority, however, is likely to be controversial and may adversely affect U.S. bilateral or multilateral law enforcement relations. Therefore, USAs are required to obtain approval from the AFMLS, Criminal Division, DOJ, prior to issuing a subpoena or summons.

Sec. 371. (U) Bulk Cash Smuggling into or out of the United States (31 U.S.C. § 5332)

(U) This section:

- (1) (U) Makes the act of smuggling bulk cash itself a criminal offense.
- (2) (U) Authorizes forfeiture of any cash or instruments of the smuggling offense.
- (3) (U) Emphasizes the seriousness of the act of bulk cash smuggling.

(U) Whoever, with the intent to evade a currency reporting requirement under 31 U.S.C. § 5316, knowingly conceals more than \$10,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer such currency or monetary instruments from a place within the United States to a place outside of the United States, or from a place outside the United States to a place within the United States, is guilty of a currency smuggling offense and subject to punishment.

(U) For purposes of this section, the concealment of currency on the person of any individual includes concealment in any article of clothing worn by the individual or in any luggage, backpack, or other container worn or carried by such individual.

Sec. 372. (U) Forfeiture in Currency Reporting Cases

(U) This section authorizes civil and criminal forfeiture for violations of currency reporting laws and regulations. (See 31 U.S.C. § 5317.)

Sec. 373. (U) Illegal Money Transmitting Businesses

(U) This section modified 18 U.S.C. § 1960, Prohibition of Unlicensed Money Transmitting Businesses, which previously made it illegal to run a money transmitting business without a license only if the individual was aware of such licensing requirements. The amendment specifically states that "Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of an unlicensed money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both."

(U) The term "unlicensed money transmitting business" means a money transmitting business that affects interstate or foreign commerce in any manner or degree and is operated without an appropriate money transmitting license in a state where such operation is punishable as a misdemeanor or a felony under state law, whether or not the

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defendant knew that the operation was required to be licensed or that the operation was so punishable, fails to comply with the money transmitting business registration requirements under 31 U.S.C. § 5330, or regulations prescribed under such section; or otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to be used to promote or support unlawful activity.

Sec. 813. (U) Inclusion of Acts of Terrorism as Racketeering Activity

(U) This section includes terrorism as a predicate offense for the RICO Act, which proscribes acquiring or operating an enterprise whose activities affect interstate or foreign commerce.

(U) In addition, the USA PATRIOT Improvement and Reauthorization Act of 2005 renewed and enhanced the USA PATRIOT Act. The following is one such enhancement:

Sec. 405. (U) Money Laundering Through *Hawalas*

(U) 18 U.S.C. § 1956 (a)(1) is amended by adding at the end the following: "For purposes of this paragraph, a financial transaction shall be considered to be one involving the proceeds of SUA if it is part of a set of parallel or dependent transactions, any one of which involves the proceeds of SUA, and all of which are part of a single plan or arrangement."

(U) This section has clear implications for *Hawalas*. Consider the following example: Illicit proceeds are provided to the *Hawaladar* who deposits them into the *Hawaladar's* bank account. Funds from a separate *Hawaladar*-controlled account are then transferred to the recipient overseas. This section now considers both transactions to be money laundering.

6. (U) Related Statutes and Regulations

(U) Interstate Transportation in Aid of Racketeering (ITAR) Statute

(U) The money laundering violations (18 U.S.C. §§ 1956 and 1957) and Title 31 violations handling the reporting of currency transactions (acts indictable under Subchapter II of Chapter 53 of Title 31, U.S. Code) have been added as predicate offenses (unlawful activities) for the ITAR Statute (18 U.S.C. § 1952).

(U) Interception of Wire, Oral, or Electronic Communications

(U) 18 U.S.C. § 2516, also referred to as Title III, includes the money laundering violations (18 U.S.C. §§ 1956 and 1957) within the enumerated offenses that authorize the interception of communications.

(U) Termination of Correspondent Relationship (31 U.S.C. § 5318(k)(3)(C))

- (1) (U) Termination upon receipt of notice - A financial institution must terminate any correspondent relationship with a foreign bank no later than ten business days after receiving written notice from the Secretary of the Treasury or the Attorney

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General (in each case, after consultation with the other) that the foreign bank has failed to comply with a summons or subpoena; or to initiate proceedings in a U.S. court contesting such summons or subpoena.

- (2) (U) Limitation on liability - A financial institution may not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship.
- (3) (U) Failure to terminate relationship - Failure to terminate a correspondent relationship renders the financial institution liable for a civil penalty of up to \$10,000 per day until the correspondent relationship is terminated.
- (U) Foreign Bank Records - Acceptance of Service (31 U.S.C. § 318(k) (3)(B))
 - (1) (U) Maintaining records in the United States - Any financial institution that maintains a correspondent account in the United States for a foreign bank must maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.
 - (2) (U) Law enforcement request - When the covered financial institution receives a written request from a federal law enforcement officer for information required to be maintained as stated in the previous paragraph, it must provide the information to the requesting officer no later than seven days after receiving the request.

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(U) Appendix B: FATF Forty Recommendations

(U) (Please note that the Forty Recommendations set forth below have been reprinted verbatim from the FATF Web site, www.fatf-gafi.org, and thus contain the European spellings of certain words.)

A. (U) Legal Systems

(U) Scope of the criminal offence of money laundering

1. (U) Countries should criminalize money laundering on the basis of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the Vienna Convention) and the United Nations Convention against Transnational Organized Crime, 2000 (the Palermo Convention).

(U) Countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences. Predicate offences may be described by reference to all offences, or to a threshold linked either to a category of serious offences or to the penalty of imprisonment applicable to the predicate offence (threshold approach), or to a list of predicate offences, or a combination of these approaches.

(U) Where countries apply a threshold approach, predicate offences should at a minimum comprise all offences that fall within the category of serious offences under their national law or should include offences which are punishable by a maximum penalty of more than one year's imprisonment or for those countries that have a minimum threshold for offences in their legal system, predicate offences should comprise all offences, which are punished by a minimum penalty of more than six months imprisonment.

(U) Whichever approach is adopted, each country should at a minimum include a range of offences within each of the designated categories of offences.

(U) Predicate offences for money laundering should extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred domestically. Countries may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically.

(U) Countries may provide that the offence of money laundering does not apply to persons who committed the predicate offence, where this is required by fundamental principles of their domestic law.

2. (U) Countries should ensure that:

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a) (U) The intent and knowledge required to prove the offence of money laundering is consistent with the standards set forth in the Vienna and Palermo Conventions, including the concept that such mental state may be inferred from objective factual circumstances.

b) (U) Criminal liability, and, where that is not possible, civil or administrative liability, should apply to legal persons. This should not preclude parallel criminal, civil or administrative proceedings with respect to legal persons in countries in which such forms of liability are available. Legal persons should be subject to effective, proportionate and dissuasive sanctions. Such measures should be without prejudice to the criminal liability of individuals.

(U) Provisional measures and confiscation

3. (U) Countries should adopt measures similar to those set forth in the Vienna and Palermo Conventions, including legislative measures, to enable their competent authorities to confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value, without prejudicing the rights of bona fide third parties.

(U) Such measures should include the authority to: (a) identify, trace and evaluate property which is subject to confiscation; (b) carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property; (c) take steps that will prevent or void actions that prejudice the State's ability to recover property that is subject to confiscation; and (d) take any appropriate investigative measures.

(U) Countries may consider adopting measures that allow such proceeds or instrumentalities to be confiscated without requiring a criminal conviction, or which require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law.

B. (U) Measures to be Taken by Financial Institutions and Non-financial Businesses and Professions to Prevent Money Laundering and Terrorist Financing

4. (U) Countries should ensure that financial institution secrecy laws do not inhibit implementation of the FATF Recommendations.

(U) Customer due diligence and record-keeping

5. (U) Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names.

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(U) Financial institutions should undertake customer due diligence measures, including identifying and verifying the identity of their customers, when:

- a) (U) Establishing business relations.
- b) (U) Carrying out occasional transactions: (i) above the applicable designated threshold or (ii) that are wire transfers in the circumstances covered by the Interpretative Note to Special Recommendation VII.
- c) (U) There is a suspicion of money laundering or terrorist financing.
- d) (U) The financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

(U) The customer due diligence (CDD) measures to be taken are as follows:

- a) (U) Identify the customer and verify the customer's identity using reliable, independent source documents, data, or information.
- b) (U) Identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner so that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements, this should include financial institutions taking reasonable measures to understand the ownership and control structure of the customer.
- c) (U) Obtain information on the purpose and intended nature of the business relationship.
- d) (U) Conduct ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business, and risk profile, including, where necessary, the source of funds.

(U) Financial institutions should apply each of the above CDD measures, but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship, or transaction. The measures that are taken should be consistent with any guidelines issued by competent authorities. For higher risk categories, financial institutions should perform enhanced due diligence. In certain circumstances, where there are low risks, countries may decide that financial institutions can apply reduced or simplified measures.

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(U) Financial institutions should verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. Countries may permit financial institutions to complete the verification as soon as reasonably practicable following the establishment of the relationship, where the money laundering risks are effectively managed and where this is essential not to interrupt the normal conduct of business.

(U) Where the financial institution is unable to comply with paragraphs (a) to (c) above, it should not open the account, commence business relations, or perform the transaction; or should terminate the business relationship; and should consider making a suspicious transactions report in relation to the customer.

(U) These requirements should apply to all new customers, though financial institutions should also apply this Recommendation to existing customers on the basis of materiality and risk, and should conduct due diligence on such existing relationships at appropriate times.

6. (U) In addition to performing normal due diligence measures relative to politically exposed persons, financial institutions should:

- a) (U) Have appropriate risk management systems to determine whether the customer is a politically exposed person.
- b) (U) Obtain senior management approval for establishing business relationships with such customers.
- c) (U) Take reasonable measures to establish the source of wealth and source of funds.
- d) (U) Conduct enhanced ongoing monitoring of the business relationship.

7. (U) In addition to performing normal due-diligence measures relative to cross-border correspondent banking and other similar relationships, financial institutions should:

- a) (U) Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action.
- b) (U) Assess the respondent institution's anti-money laundering and terrorist financing controls.
- c) (U) Obtain approval from senior management before establishing new correspondent relationships.

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d) (U) Document the respective responsibilities of each institution.

e) (U) With respect to "payable-through accounts", be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.

8. (U) Financial institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favor anonymity, and take measures, if needed, to prevent their use in money laundering schemes. In particular, financial institutions should have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions.

9. (U) Countries may permit financial institutions to rely on intermediaries or other third parties to perform elements (a) – (c) of the CDD process or to introduce business, provided that the criteria set out below are met. Where such reliance is permitted, the ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.

(U) The criteria that should be met are as follows:

a) (U) A financial institution relying upon a third party should immediately obtain the necessary information concerning elements (a) - (c) of the CDD process. Financial institutions should take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay.

b) (U) The financial institution should satisfy itself that the third party is regulated and supervised for, and has measures in place to comply with CDD requirements in line with Recommendations 5 and 10.

(U) It is left to each country to determine in which countries the third party that meets the conditions can be based, having regard to information available on countries that do not or do not adequately apply the FATF Recommendations.

10. (U) Financial institutions should maintain, for at least five years, all necessary records on transactions, both domestic or international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types

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of currency involved if any) so as to provide, if necessary, evidence for prosecution of criminal activity.

(U) Financial institutions should keep records on the identification data obtained through the customer due diligence process (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence for at least five years after the business relationship is ended. The identification data and transaction records should be available to domestic competent authorities upon appropriate authority.

11. (U) Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors.

12. (U) The customer due diligence and record-keeping requirements set out in Recommendations 5, 6, and 8 to 11 apply to designated non-financial businesses and professions in the following situations:

- a) (U) Casinos - when customers engage in financial transactions equal to or above the applicable designated threshold.
- b) (U) Real estate agents - when they are involved in transactions for their client concerning the buying and selling of real estate.
- c) (U) Dealers in precious metals and dealers in precious stones - when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.
- d) (U) Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the following activities:
 - o (U) buying and selling of real estate;
 - o (U) managing of client money, securities or other assets;
 - o (U) management of bank, savings or securities accounts;
 - o (U) organization of contributions for the creation, operation or management of companies;
 - o (U) creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
- e) (U) Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed in the definition in the Glossary.

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(U) Reporting of suspicious transactions and compliance

13. (U) If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, directly by law or regulation, to report promptly its suspicions to the financial intelligence unit (FIU).

14. (U) Financial institutions, their directors, officers and employees should be:

(U) Protected by legal provisions from criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

Prohibited by law from disclosing the fact that a suspicious transaction report (STR) or related information is being reported to the FIU.

15. (U) Financial institutions should develop programs against money laundering and terrorist financing. These programs should include:

(U) The development of internal policies, procedures and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees.

(U) An ongoing employee training program.

(U) An audit function to test the system.

16. (U) The requirements set out in Recommendations 13 to 15, and 21 apply to all designated non-financial businesses and professions, subject to the following qualifications:

a) (U) Lawyers, notaries, other independent legal professionals and accountants should be required to report suspicious transactions when, on behalf of or for a client, they engage in a financial transaction in relation to the activities described in Recommendation 12(d). Countries are strongly encouraged to extend the reporting requirement to the rest of the professional activities of accountants, including auditing.

b) (U) Dealers in precious metals and dealers in precious stones should be required to report suspicious transactions when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.

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c) (U) Trust and company service providers should be required to report suspicious transactions for a client when, on behalf of or for a client, they engage in a transaction in relation to the activities referred to Recommendation 12(e).

(U) Lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals, are not required to report their suspicions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege.

(U) *Other measures to deter money laundering and terrorist financing*

17. (U) Countries should ensure that effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative, are available to deal with natural or legal persons covered by these Recommendations that fail to comply with anti-money laundering or terrorist financing requirements.

18. (U) Countries should not approve the establishment or accept the continued operation of shell banks. Financial institutions should refuse to enter into, or continue, a correspondent banking relationship with shell banks. Financial institutions should also guard against establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.

19. (U) Countries should consider the feasibility and utility of a system where banks and other financial institutions and intermediaries would report all domestic and international currency transactions above a fixed amount, to a national central agency with a computerized data base, available to competent authorities for use in money laundering or terrorist financing cases, subject to strict safeguards to ensure proper use of the information.

20. (U) Countries should consider applying the FATF Recommendations to businesses and professions, other than designated non-financial businesses and professions that pose a money laundering or terrorist financing risk.

(U) Countries should further encourage the development of modern and secure techniques of money management that are less vulnerable to money laundering.

(U) *Measures to be taken with respect to countries that do not or insufficiently comply with the FATF Recommendations*

21. (U) Financial institutions should give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply

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the FATF Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities. Where such a country continues not to apply or insufficiently applies the FATF Recommendations, countries should be able to apply appropriate countermeasures.

22. (U) Financial institutions should ensure that the principles applicable to financial institutions, which are mentioned above are also applied to branches and majority owned subsidiaries located abroad, especially in countries which do not or insufficiently apply the FATF Recommendations, to the extent that local applicable laws and regulations permit. When local applicable laws and regulations prohibit this implementation, competent authorities in the country of the parent institution should be informed by the financial institutions that they cannot apply the FATF Recommendations.

(U) Regulation and supervision

23. (U) Countries should ensure that financial institutions are subject to adequate regulation and supervision and are effectively implementing the FATF Recommendations. Competent authorities should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in a financial institution.

(U) For financial institutions subject to the Core Principles, the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering, should apply in a similar manner for anti-money laundering and terrorist financing purposes.

(U) Other financial institutions should be licensed or registered and appropriately regulated, and subject to supervision or oversight for anti-money laundering purposes, having regard to the risk of money laundering or terrorist financing in that sector. At a minimum, businesses providing a service of money or value transfer, or of money or currency changing should be licensed or registered, and subject to effective systems for monitoring and ensuring compliance with national requirements to combat money laundering and terrorist financing.

24. (U) Designated non-financial businesses and professions should be subject to regulatory and supervisory measures as set out below.

- a) (U) Casinos should be subject to a comprehensive regulatory and supervisory regime that ensures that they have effectively implemented the necessary anti-money

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laundrying and terrorist-financing measures. At a minimum:

- o (U) Casinos should be licensed
- o (U) Competent authorities should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino
- o (U) Competent authorities should ensure that casinos are effectively supervised for compliance with requirements to combat money laundrying and terrorist financing.

b) (U) Countries should ensure that the other categories of designated non-financial businesses and professions are subject to effective systems for monitoring and ensuring their compliance with requirements to combat money laundrying and terrorist financing. This should be performed on a risk-sensitive basis. This may be performed by a government authority or by an appropriate self-regulatory organization, provided that such an organization can ensure that its members comply with their obligations to combat money laundrying and terrorist financing.

25. (U) The competent authorities should establish guidelines, and provide feedback which will assist financial institutions and designated non-financial businesses and professions in applying national measures to combat money laundrying and terrorist financing, and in particular, in detecting and reporting suspicious transactions.

C. (U) Institutional and Other Measures Necessary in Systems for Combating Money Laundrying and Terrorist Financing

(U) Competent authorities, their powers and resources

26. (U) Countries should establish a FIU that serves as a national centre for the receiving (and, as permitted, requesting), analysis and dissemination of STR and other information regarding potential money laundrying or terrorist financing. The FIU should have access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of STR.

27. (U) Countries should ensure that designated law enforcement authorities have responsibility for money laundrying and terrorist financing investigations. Countries are encouraged to support and develop, as far as possible, special investigative techniques suitable for the investigation of money laundrying, such as controlled delivery, undercover

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operations and other relevant techniques. Countries are also encouraged to use other effective mechanisms such as the use of permanent or temporary groups specialized in asset investigation, and co-operative investigations with appropriate competent authorities in other countries.

28. (U) When conducting investigations of money laundering and underlying predicate offences, competent authorities should be able to obtain documents and information for use in those investigations, and in prosecutions and related actions. This should include powers to use compulsory measures for the production of records held by financial institutions and other persons, for the search of persons and premises, and for the seizure and obtaining of evidence.

29. (U) Supervisors should have adequate powers to monitor and ensure compliance by financial institutions with requirements to combat money laundering and terrorist financing, including the authority to conduct inspections. They should be authorized to compel production of any information from financial institutions that is relevant to monitoring such compliance, and to impose adequate administrative sanctions for failure to comply with such requirements.

30. (U) Countries should provide their competent authorities involved in combating money laundering and terrorist financing with adequate financial, human and technical resources. Countries should have in place processes to ensure that the staff of those authorities are of high integrity.

31. (U) Countries should ensure that policy makers, the FIU, law enforcement and supervisors have effective mechanisms in place which enable them to co-operate, and where appropriate coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.

32. (U) Countries should ensure that their competent authorities can review the effectiveness of their systems to combat money laundering and terrorist financing systems by maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of such systems. This should include statistics on the STR received and disseminated; on money laundering and terrorist financing investigations, prosecutions and convictions; on property frozen, seized and confiscated; and on mutual legal assistance or other international requests for co-operation.

(U) Transparency of legal persons and arrangements

33. (U) Countries should take measures to prevent the unlawful use of legal persons by money launderers. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely

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fashion by competent authorities. In particular, countries that have legal persons who are able to issue bearer shares should take appropriate measures to ensure that they are not misused for money laundering and be able to demonstrate the adequacy of those measures. Countries could consider measures to facilitate access to beneficial ownership and control information to financial institutions undertaking the requirements set out in Recommendation 5.

34. (U) Countries should take measures to prevent the unlawful use of legal arrangements by money launderers. In particular, countries should ensure that there is adequate, accurate and timely information on express trusts, including information on the settlor, trustee and beneficiaries that can be obtained or accessed in a timely fashion by competent authorities. Countries could consider measures to facilitate access to beneficial ownership and control information to financial institutions undertaking the requirements set out in Recommendation 5.

D. (U) International Co-Operation

35. (U) Countries should take immediate steps to become party to and implement fully the Vienna Convention, the Palermo Convention, and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism. Countries are also encouraged to ratify and implement other relevant international conventions, such as the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 2002 Inter-American Convention against Terrorism.

(U) Mutual legal assistance and extradition

36. (U) Countries should rapidly, constructively and effectively provide the widest possible range of mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings. In particular, countries should:

- a) (U) Not prohibit or place unreasonable or unduly restrictive conditions on the provision of mutual legal assistance.
- b) (U) Ensure that they have clear and efficient processes for the execution of mutual legal assistance requests.
- c) (U) Not refuse to execute a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
- d) (U) Not refuse to execute a request for mutual legal assistance on the grounds that laws require financial institutions to maintain secrecy or confidentiality.

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(U) Countries should ensure that the powers of their competent authorities required under Recommendation 28 are also available for use in response to requests for mutual legal assistance, and if consistent with their domestic framework, in response to direct requests from foreign judicial or law enforcement authorities to domestic counterparts.

(U) To avoid conflicts of jurisdiction, consideration should be given to devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.

37. (U) Countries should, to the greatest extent possible, render mutual legal assistance notwithstanding the absence of dual criminality.

(U) Where dual criminality is required for mutual legal assistance or extradition, that requirement should be deemed to be satisfied regardless of whether both countries place the offence within the same category of offence or denominate the offence by the same terminology, provided that both countries criminalize the conduct underlying the offence.

38. (U) There should be authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value. There should also be arrangements for coordinating seizure and confiscation proceedings, which may include the sharing of confiscated assets.

39. (U) Countries should recognize money laundering as an extraditable offence. Each country should either extradite its own nationals, or where a country does not do so solely on the grounds of nationality, that country should, at the request of the country seeking extradition, submit the case without undue delay to its competent authorities for the purpose of prosecution of the offences set forth in the request. Those authorities should take their decision and conduct their proceedings in the same manner as in the case of any other offence of a serious nature under the domestic law of that country. The countries concerned should cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecutions.

(U) Subject to their legal frameworks, countries may consider simplifying extradition by allowing direct transmission of extradition requests between appropriate ministries, extraditing persons based only on warrants of arrests or judgments, and/or introducing a simplified extradition of consenting persons who waive formal extradition proceedings.

(U) *Other forms of co-operation*

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40. (U) Countries should ensure that their competent authorities provide the widest possible range of international co-operation to their foreign counterparts. There should be clear and effective gateways to facilitate the prompt and constructive exchange directly between counterparts, either spontaneously or upon request, of information relating to both money laundering and the underlying predicate offences. Exchanges should be permitted without unduly restrictive conditions. In particular:

- a) (U) Competent authorities should not refuse a request for assistance on the sole ground that the request is also considered to involve fiscal matters.
- b) (U) Countries should not invoke laws that require financial institutions to maintain secrecy or confidentiality as a ground for refusing to provide co-operation.
- c) (U) Competent authorities should be able to conduct inquiries; and where possible, investigations; on behalf of foreign counterparts.

(U) Where the ability to obtain information sought by a foreign competent authority is not within the mandate of its counterpart, countries are also encouraged to permit a prompt and constructive exchange of information with non-counterparts. Co-operation with foreign authorities other than counterparts could occur directly or indirectly. When uncertain about the appropriate avenue to follow, competent authorities should first contact their foreign counterparts for assistance.

(U) Countries should establish controls and safeguards to ensure that information exchanged by competent authorities is used only in an authorized manner, consistent with their obligations concerning privacy and data protection.

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**(U//FOUO) Appendix C: Memorandum of Understanding
Among the Secretary of the Treasury, the Attorney General,
and the Postmaster General Regarding Money Laundering
Investigations**

(U//FOUO) This Memorandum of Understanding (MOU) constitutes an agreement among the Secretary of the Treasury (the Secretary), the Attorney General, and the Postmaster General as to the investigatory authority and procedures of Treasury and Justice Bureaus and the Postal Service under 18 U.S.C sections 1956 and 1957, as amended by the Anti-Drug Abuse Act of 1988, Pub. L. 100-690 (Nov. 18, 1988). This replaces a previous MOU on this subject between the Secretary and the Attorney General effective May 20, 1987.

Section I. (U//FOUO) Purpose

(U//FOUO) The Attorney General, the Secretary and the Postmaster General have entered into this MOU in order to encourage effective and harmonious cooperation by Treasury and Justice bureaus and the Postal Service in the development of cases by bureaus with appropriate experience, to reduce the possibility of duplicative investigations, to minimize the potential for dangerous situations which might arise from uncoordinated multi-bureau efforts, and to enhance the potential for successful prosecution in cases presented to the various U.S. Attorneys.

(U//FOUO) As clearly stated in the legislative history of the Act, this MOU does not confer any rights on any third party, including a defendant or other party in litigation with the U.S. The fact that a bureau investigates a violation of section 1956 or section 1957 that should have been investigated by another bureau under the terms of this MOU, or that any agency not a party to this MOU investigates a violation of section 1956 or section 1957, confers no rights and provides no defense to any party.

(U//FOUO) While this MOU allocates jurisdiction to investigate violations of sections 1956 and 1957, nothing in this MOU is intended to augment or diminish the investigatory authority of any Justice or Treasury bureau or the Postal Service over violations of any federal criminal law, independent of the money laundering statute, or to alter the existing allocation or delegation of such authority. This MOU governs all investigations involving 18 U.S.C. 1956 and 1957 and is intended to be used together with MOUs presently existing between the bureaus. This MOU does not supersede the provision of 26 U.S.C. 6103 (confidentiality and disclosure of returns and return information).

Section II. (U//FOUO) Definitions

1. (U//FOUO) 'Bureau' includes the Postal Inspection Service.

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2. (U//FOUO) 'Treasury bureaus' mean the Internal Revenue Service (IRS), the U.S. Customs Service, the Bureau of Alcohol, Tobacco, and Firearms (ATF), and the U.S. Secret Service.

3. (U//FOUO) 'Justice bureaus' means the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI).

4. (U//FOUO) 'Violations of section 1956' refers to both civil and criminal violations.

5. (U//FOUO) 'Specified unlawful activities' has the definition set forth in 18 U.S.C. section 1956 (c) (7).

6. (U//FOUO) 'Justice Department attorney' means the appropriate Assistant U.S. Attorney or designated Justice Department attorney assigned to the prosecution of the case.

Section III. (U//FOUO) Investigatory Jurisdiction

(U//FOUO) A bureau's investigatory actions in pursuit of a section 1956 or 1957 violation shall be conducted only in those areas in which the investigating bureau has existing jurisdiction, independent of the money laundering statutes, as set forth in this Section.

A. (U//FOUO) Treasury Bureaus

1. (U//FOUO) Internal Revenue Service

(U//FOUO) The Internal Revenue Service will have investigative jurisdiction over all violations of Section 1956 and 1957 where the underlying conduct is subject to investigation under Title 26 or the BSA.

2. (U//FOUO) U.S. Customs Service

a. (U//FOUO) The U.S. Customs Service will have investigatory jurisdiction over violations of section 1956 or section 1957 involving the following specified unlawful activities: criminal offenses under 18 U.S.C. section 542, (relating to entry of goods by means of false statements), section 545 (relating to the smuggling of goods into the U.S.), section 549 (relating to removing goods from Customs custody), section 659 (relating to theft from foreign shipment), sections 1461-63 and 1465 (relating to illegal import or export of obscene matter), sections 2251-52 (relating to imports or exports of material involving sexual exploitation of children), section 2314 (relating to foreign transportation of stolen property), and section 2321 (relating to the import or export of certain motor vehicles or vehicle parts); 19 U.S.C. section 1590 (relating to aviation smuggling); 21 U.S.C. section 857 (relating to the illegal import or export of drug paraphernalia); criminal offenses under section 11 of the Export Administration Act of 1979 (50 U.S.C. App. section 2410); criminal offenses under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705); criminal offenses under section 16 of the Trading with the Enemy

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Act (50 U.S.C. App. 16); and criminal offenses under section 38(c) of the Arms Export Control Act (22 U.S.C. section 2778) (relating to exportation, in transit, temporary import, or temporary export transactions).

b. (U//FOUO) The U.S. Customs Service will have investigatory jurisdiction over violations of section 1956(a) (2) (B)(ii), involving the international transportation of monetary instruments or funds which are proceeds of some form of unlawful activity and where the defendant knew that the transportation was designed in whole or in part to avoid a transaction reporting requirement under 31 U.S.C. 5316 (Reports on exporting and importing monetary instruments).

3. (U//FOUO) U.S. Secret Service

(U//FOUO) The U.S. Secret Service will have investigatory jurisdiction over violations of section 1956 or section 1957 involving the SUA of an offense under 18 U.S.C. sections 471-473 (counterfeiting of obligations or securities of the United States), sections 500-503 (counterfeiting of blank or postal money orders, postage stamps, foreign governments postage and revenue stamps, and postmarking stamps), section 657 (involving theft, embezzlement or misapplication by employees of the Federal Deposit Insurance Company [FDIC]), and section 1029 (fraud and related activity in connection with access devices).

4. (U//FOUO) Bureau of Alcohol, Tobacco and Firearms

(U//FOUO) The Bureau of Alcohol, Tobacco and Firearms will have investigatory jurisdiction over violations of section 1956 or section 1957 involving the SUA of an offense under 18 U.S.C. sections 2341-2346 (trafficking in contraband cigarettes); section 38(c) of the Arms Export Control Act, 22 U.S.C. section 2778 (relating to the importation of items on the U.S. Munitions Import List, except those relating to exportation, in transit, temporary import, or temporary export transactions); and 18 U.S.C. 1952 (relating to traveling in interstate commerce, with respect to liquor on which federal excise tax has not been paid and arson); or any act or activity constituting an offense listed in 18 U.S.C. 1961(1), with respect to any act or threat involving arson, which is chargeable under State law and punishable for more than one year.

B. (U//FOUO) Justice Bureaus

1. (U//FOUO) Federal Bureau of Investigation

(U//FOUO) The Federal Bureau of Investigation will have investigatory jurisdiction over violations of section 1956 or section 1957 involving unlawful activities of an offense under 18 U.S.C. section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), section 513 (relating to securities of States and private entities), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee),

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section 657 (relating to lending, credit, and insurance institutions), 658 (relating to property mortgaged or pledged to farm credit agencies), section 666 (relating to theft or bribery concerning programs receiving Federal funds), sections 793, 794, or 798 (relating to espionage), section 875 (relating to interstate communications), section 1201 (relating to kidnapping), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or section 2113 or 2114 (relating to bank and postal robbery and theft), sections 2251, 2251A, 2252, and 2258 (relating to sexual exploitation of children); section 2319 (relating to copyright infringement); or section 2320 (relating to trafficking in counterfeit goods and services); or 7 U.S.C. section 2024 (relating to food stamp fraud); 21 U.S.C. section 830 (relating to precursor chemicals), section 857 (relating to transportation of drug paraphernalia) and, with respect to a financial transaction occurring in whole or in part in the U.S., an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act); and any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or any act or activity constituting an offense listed in 18 U.S.C. 1961(1), with respect to any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or in dealing in narcotics or other dangerous drugs which is chargeable under State law and punishable for more than one year; 18 U.S.C. 201 (bribery); 18 U.S.C. 224 (sports bribery); 18 U.S.C. 659 (theft from interstate shipment); 18 U.S.C. 664 (embezzlement from pension and welfare funds); 18 U.S.C. 891-894 (extortionate credit transactions); 18 U.S.C. 1029 (fraud and related activity in connection with access devices); 18 U.S.C. 1084 (the transmission of gambling information); 18 U.S.C. 1341 (mail fraud); 18 U.S.C. 1343 (wire fraud); 18 U.S.C. 1461-1465 (obscene matter); 18 U.S.C. 1503 (obstruction of justice); 18 U.S.C. 1510 (obstruction of criminal investigation); 18 U.S.C. 1511 (the obstruction of State or local law enforcement); 18 U.S.C. 1512 (tampering with a witness, victim or informant); 18 U.S.C. 1513 (retaliating against a witness, victim or informant); 18 U.S.C. 1951 (interference with commerce, robbery or extortion); 18 U.S.C. 1952 (racketeering, except with respect to untaxed paid liquor and arson); 18 U.S.C. 1953 (interstate transportation of wagering paraphernalia); 18 U.S.C. 1954 (unlawful welfare fund payments); 18 U.S.C. 1955 (the prohibition of illegal gambling businesses); 18 U.S.C. 1958 (use of interstate commerce facilities in the commission of murder-for-hire); 18 U.S.C. 2251, 2251A, 2252, and 2258 (sexual exploitation of children); 18 U.S.C. 2321 (trafficking in certain motor vehicles or motor vehicle parts); 18 U.S.C. 2312 and 2313 (interstate transportation of stolen motor vehicles); 18 U.S.C. 2314 and 2315 (interstate transportation of stolen property); 18 U.S.C. 2421-24 (white slave traffic); any act which is indictable under 29 U.S.C. 186 (restrictions on payments and loans to labor organizations) or 29 U.S.C. 501(c) (embezzlement from union funds); any offense involving fraud connected with a case under title 11, fraud in the sale of securities, and the

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felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the U.S."

(U//FOUO) (The above SUAs in Section 1956 and violations specified in Section 1961 are changed occasionally. [for current RICO predicate offenses], 272-4, and 272-11 [for current SUAs].)

2. (U//FOUO) Drug Enforcement Administration

(U//FOUO) The Drug Enforcement Administration shall have investigatory jurisdiction over violations of sections 1956 or 1957 involving the specified unlawful activities of, with respect to a financial transaction occurring in whole or in part in the U.S., an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purpose of the Controlled Substances Act) including 21 U.S.C. 830 (relating to precursor and essential chemicals) and 857 (relating to transportation of drug paraphernalia); or any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); or any of the predicate offenses enumerated in 18 U.S.C. 1961(1) dealing in narcotics or other dangerous drugs which are chargeable under State law and punishable for more than one year, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotics or other dangerous drugs, punishable under any law of the U.S.

C. (U//FOUO) U.S. Postal Service

(U//FOUO) The investigative jurisdiction of the Postal Inspection Service is limited by 18 U.S.C. 3061 to offenses regarding property in the custody of the Postal Service, property of the Postal Service, use of the mails, other postal offenses, and offenses for which the Postal Service has been delegated investigative authority pursuant to 18 U.S.C. 3061 (b)(2). Subject to these limitations, the Postal Inspection Service shall have investigative jurisdiction over violations of sections 1956 and 1957 involving the specified unlawful activities of 18 U.S.C. 201 (bribery of public officials and witnesses); 18 U.S.C. 500-503 (counterfeiting of money orders, post cards, indicia of postage and postmarking stamps); 18 U.S.C. 641 (theft of public money, property or records); 18 U.S.C. 1029 (fraudulent activity in connection with access devices) with respect to violations involving postal employees, fraud against the Postal Service or where the primary focus of the offense is mail fraud or a violation of 18 U.S.C. 2114 (postal robbery); 18 U.S.C. 1341 (mail fraud); 18 U.S.C. 1343 (wire fraud) where the primary focus of the offense is mail fraud; 18 U.S.C. 1461 and 1463 (mailing of obscene matter); 18 U.S.C. 1503, 1510-1513 (obstruction of justice); 18 U.S.C. 1952 (mailing in aid of racketeering enterprises); 18 U.S.C. 1961 (1)(A) (organized crime); 18 U.S.C. 2114 (robbery of mail, other property); 18 U.S.C. 2251, 2252 (sexual exploitation of minors); any 18 U.S.C. 1961 (1) offense

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dealing in narcotics and other dangerous drugs which are chargeable under state law and punishable for more than one year, or by the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotics or other dangerous drugs punishable under any law of the U.S., or any act or acts constituting criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848); 21 U.S.C. 843 (b) (use of mails to violate Controlled Substances Act); and, Section 1822 of the Mail Order Drug Paraphernalia Control Act (21 U.S.C. 857) (transportation of drug paraphernalia.

Section IV. (U//FOUO) Undercover Operations

(U//FOUO) This MOU will govern the conduct of all money laundering investigations under sections 1956 and 1957 in that all parties hereto agree that all undercover operations will be reviewed using each bureau's internal guidelines, the objectives of which are consistent with existing Attorney General Guidelines on undercover operations.

Section V. (U//FOUO) Seizure and Forfeiture

(U//FOUO) Any property involved in a violation of section 1956 or 1957 that a Treasury or Justice bureau or the Postal Service has authority to investigate under Section III of this MOU may be seized by that bureau or the Postal Service, if that property is subject to forfeiture to the U.S. under 18 U.S.C. 981(a)(1)(A) or 981(a)(1)(B).

(U//FOUO) Where a Treasury or Justice bureau or the Postal Service would have authority to seize property under the authority stated in the preceding paragraph is not present to make the seizure, any Treasury or Justice bureau or the Postal Service that is present may seize the property and shall immediately turn over that property to the bureau having Section III investigatory jurisdiction, where the forfeiture processing shall occur.

(U//FOUO) Any property seized under this Section shall, upon forfeiture under 18 U.S.C. 981 or 982, be apportioned among the appropriate Treasury or Justice bureaus or the Postal Service in accordance with their respective contribution to the overall efforts expended in the investigation, seizure, or forfeiture.

(U//FOUO) Pursuant to 18 U.S.C. 981(e) and, where appropriate, the Justice Department, the Treasury Department or the Postal Service forfeiture guidelines, apportionment may include equitable transfers to any other Federal agency or State or local authorities, which participated directly in any of the acts which led to the seizure or forfeiture.

(U//FOUO) Any dispute regarding the seizure, forfeiture, apportionment, or disposition of property under this section shall be governed by the disputes resolution procedure in Section IX of this MOU.

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(U//FOUO) This MOU does not affect Treasury or Justice bureaus' or the Postal Service's authority to seize property or the disposition of such property under statutory seizure and forfeiture provisions not based on section 1956 and 1957 violations.

A. (U//FOUO) Seizure of Attorney Fees:

(U//FOUO) Treasury and Justice bureaus and the Postal Service will follow DOJ guidelines in reference to the seizure and forfeiture of any money or property that is held by an attorney or payment for the defense of a client. See *U.S. Attorneys Manual* 9-111.000, et seq.

Section VI. (U//FOUO) Prosecution

(U//FOUO) A bureau that conducts an investigation under the authority of this MOU shall coordinate with Justice Department attorneys.

Section VII. (U//FOUO) Notice, Coordination, and Lead Bureau

A. (U//FOUO) Notice

1. (U//FOUO) If, during the investigation of a section 1956 or 1957 violation, a bureau discovers an SUA or a transaction reporting violation over which another bureau has investigatory jurisdiction, that bureau shall give notice to the bureau which has investigatory jurisdiction over the SUA or to the Internal Revenue Service or Customs, as appropriate, in the case of a transaction reporting violation, and to consult prior to taking any investigative actions impacting on the other bureau's jurisdiction.

2. (U//FOUO) If a bureau discovers transactions involving the proceeds of an SUA conducted with intent to engage in a violation of section 7201 or 7206 of the Internal Revenue Code, that bureau shall give notice to the Internal Revenue Service and coordinate the subsequent investigation with the IRS. To the extent that any IRS money laundering investigation requires the acquisition of evidence concerning an underlying SUA, the IRS shall notify the bureau having jurisdiction over the SUA and coordinate the subsequent investigation with that bureau.

3. (U//FOUO) Notice under this section will ordinarily be made at supervisory field level and will, at a minimum, require a complete summary of the facts and circumstances of the investigation.

(U//FOUO) However, in those instances where a bureau undertakes an investigation in which it determines that field level disclosure would be detrimental to the investigation, the required notice will be made at the headquarters level and dissemination restricted to selected individuals consistent with the need to maintain security of the investigations.

B. (U//FOUO) Coordination and Determination of Lead Bureau

(U//FOUO) Investigatory actions which involve areas outside the investigating bureau's existing jurisdiction, independent of the money laundering

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statute, shall be conducted only in coordination with the bureau(s) which do have existing jurisdiction independent of the money laundering statute. Coordination requires, at a minimum, a determination of the degree of cooperation necessary between the coordinating bureau(s) and includes continuing dialogue as the case develops. At the request of any coordinating bureau, at any time as the case develops, there shall be a determination of the lead bureau for the Section 1956 or 1957 investigation. The determination of lead bureau does not preclude a subsequent request by a coordinating bureau for redetermination of the lead as compelling facts and circumstances warrant.

(U//FOUO) The determination of the lead bureau will be made at the supervisory field level by the bureaus involved and will be governed by which bureau has the paramount investigatory interest. In determining which bureau has the paramount investigatory interest, the factors to be considered shall include, but not be limited to:

- (U//FOUO) Likely impact on major criminal enterprises
- (U//FOUO) Likelihood of successful prosecution
- (U//FOUO) Existence of an SUA, as defined in section 1956(c)(7)
- (U//FOUO) Jeopardy to informants, undercover agents, or third parties
- (U//FOUO) Commitment of investigatory resources
- (U//FOUO) Any other matter of substantive investigative interest.

Section VIII. (U//FOUO) Jointly Conducted Investigations

(U//FOUO) Treasury and Justice bureaus and the Postal Service are encouraged to enter into joint investigatory endeavors in circumstances that may necessitate or justify the use of skills and resources of more than one bureau. The specific details of each joint investigation, including the role of each bureau in the endeavor, will be formulated at the onset of the investigation and will be provided to each bureau's headquarters by each bureau's established procedures. While differing circumstances will result in varied arrangements from project to project, certain conditions will always apply:

- (U//FOUO) Participating personnel will be supervised by their respective bureaus. This does not alter any other concerning supervision of investigatory personnel

(U//FOUO) Money Laundering Manual

- (U//FOUO) Only one evidentiary document, such as a record of interview will be prepared, and a copy will be furnished to the other bureau at the time the document is prepared

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- (U//FOUO) Resources and investigatory expertise will be provided to the requesting bureau when the investigatory matter meets the criteria of the requested bureau and when available resources allow

- (U//FOUO) Any contact with the news media, such as press releases, will be coordinated and agreed to in advance by the bureaus involved

Section IX. (U//FOUO) Dispute Resolution

(U//FOUO) The Secretary, the Attorney General and the Postmaster General contemplate that in cases of overlapping jurisdiction, the appropriate bureaus will work in concert to the extent authorized by law. Any disputes between bureaus should be resolved at the field level. When this cannot be accomplished, the matter will be referred to the respective headquarters' point of contact. In the event that disputes cannot be resolved by the bureau headquarters, the matter will be expeditiously referred to the Assistant Attorney General, Criminal Division, DOJ, and the Assistant Secretary for Enforcement, Department of the Treasury, and in disputes involving the Postal Service, to the Chief Postal Inspector, whose decisions shall be final.

Section X. (U//FOUO) Extraterritorial Jurisdiction

(U//FOUO) Treasury and Justice bureaus and the Postal Service must immediately notify the appropriate prosecuting attorney or other designated DOJ official if, in the course of a section 1956 or section 1957 investigation, it becomes likely that extraterritorial jurisdiction under section 1956(f) or section 1957(d) will be invoked. See *U.S. Attorneys Manual* 9-105.100.

Section XI. (U//FOUO) Amendment

(U//FOUO) This MOU may be amended by deletion or modification of any provision contained herein, or by addition of new provisions, after written concurrence of all the parties to the MOU.

(U//FOUO) Section XII. Termination

(U//FOUO) This MOU will remain in effect until terminated by the Attorney General or the Secretary or the Postmaster General upon 30 days' written notice.

Section XIII. (U//FOUO) Approval

(U//FOUO) This MOU becomes effective when approved by the parties identified below.

Peter K. Nunez

Peter K. Nunez

Assistant Secretary (Enforcement) Deputy Attorney General U.S.
Department of Treasury U.S. DOJ

William P. Barr

William P. Barr

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July 31, 1990

Date

8/11/90

Date

Charles R. Clauson

Charles R. Clauson
Chief Postal Inspector

8/16/90

Date

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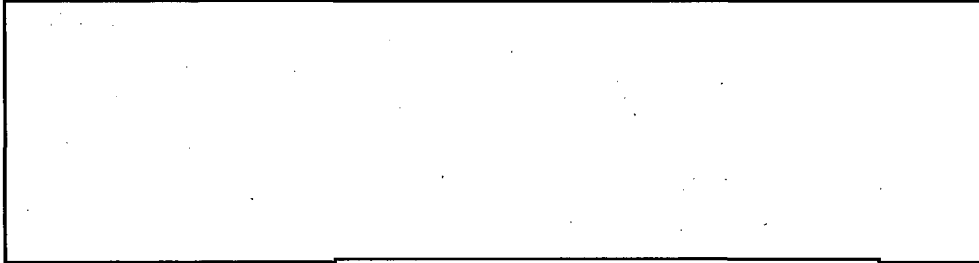
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(U) Appendix D: Sources of Additional Information

(U) FBI Intranet Resources:



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(U) DOJ Intranet Resources:

(U) External Web (Internet) Resources:

http://usinfo.state.gov/ei/economic_issues/terrorist_financing/money_laundering/money_reading.html - Department of State; for additional information on money laundering

(U) <http://www.egmontgroup.org> - Egmont Group; for additional information regarding the Egmont group and law enforcement requests

(U) www.fincen.gov/hr3162.pdf - FinCEN; for additional information on money laundering

(U) www.treas.gov/offices/enforcement/pdf/ - Department of the Treasury; for a full copy of the U.S. Money Laundering Threat Assessment

(U) <http://www.fatf-gafi.org> - FATF; for additional information regarding the FATF and recent money laundering assessments

(U) <http://www.state.gov>, www.treas.gov, www.cdi.gov - Various; for information on Designated Terrorist Lists

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(U) Appendix E: Contact Information

Criminal Investigative Division	
AD Kevin L. Perkins	202-324-4260
Deputy Assistant Director David A. Cardona	202-324-5740
Financial Crimes Section	
Section Chief Sharon E. Ormsby	
Asset Forfeiture/Money Laundering Unit	
Unit Chief	
AF/MLU Address:	FBI Headquarters, Room 3901 J. Edgar Hoover Building 935 Pennsylvania Avenue, NW Washington, D.C. 20535

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(U) Appendix F: Key Words

(U) **272** - FBI investigative classification for money laundering matters, subclassified A - F.

(U) **a.k.a.** - also known as.

(U) **Black market peso exchange** - a type of informal value transfer system typically used in the Colombian drug trade. Funds can be transferred through this system with the assistance of black market currency brokers and their agents in various countries.

(U) **Bulk cash smuggling** - the process of physically transporting currency or monetary instruments, such as traveler's or cashier's checks, across national borders.

(U) **Cap** - a maximum amount or number.

(U) **Casas de Cambio** - currency exchange houses specializing in Latin American currencies and transactions. These businesses provide various money services to customers and are common along the U.S./Mexican border.

(U) **Closed system** - a type of stored value or prepaid card that can be used for limited purposes. Closed system cards typically can be used only to purchase products or services from a specific merchant and cannot be used for ATM withdrawals.

(U) **Cooling-off period** - the time period following the purchase of a life insurance contract during which the contract can be cancelled without penalty.

(U) **Correspondent account** - accounts held by U.S. banks on behalf of foreign banks. Such accounts allow foreign banks to clear U.S. dollar transactions.

(U) **Criminally derived property** - any property constituting, or derived from, proceeds obtained from a criminal offense.

(U) **Dependent/parallel transactions** - transactions defined in the USA PATRIOT Act as they pertain to money remitter businesses. Such transactions include those that are connected to, or associated with, other transactions involving the transfer or transmission of illegal proceeds.

(U) **Digital currency** - also known as e-currency, digital currency is a cyber-based means of exchange typically backed by gold, silver, or other precious metals. Digital currencies are unique to their issuers and can only be used to purchase products and services from vendors who accept the issuer's specific form of currency.

(U) **Due diligence** - appropriate action or appropriate time given.

(U) **Egmont** - an international network of more than 100 countries that have implemented national centers to collect, analyze, and disseminate information on suspicious or unusual financial activity from the financial industry.

(U) **Et seq.** - abbreviation for the Latin phrase *et sequentes*, meaning "and the following." It is commonly used by lawyers to include numbered lists, pages, or sections after the first number is stated.

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(U) **Facilitation cases** - cases where the FBI receives proceeds derived from one or more of the specified unlawful activities (18 U.S.C. §1956(c) (7)), then places the money into the financial system or converts it in some way to launder it toward the criminal organization.

(U) **Financial Action Task Force** - an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

(U) **Financial Crimes Enforcement Network** - Bureau of the Department of the Treasury whose mission is to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity.

(U) **Financial transaction -1)** a transaction that in any way or degree affects interstate or foreign commerce: a) involving the movement of funds by wire or other means, b) involving one or more monetary instruments, or c) involving the transfer of title to any real property, vehicle, vessel, or aircraft. 2) a transaction involving the use of a financial institution that is engaged in, or the activities of which affect interstate or foreign commerce in any way or degree.

(U) **Gift cards** - prepaid cards that can be purchased anonymously through retail outlets and are given to others.

(U) **Giros** - a currency exchange house specializing in Latin American currencies and transactions. These businesses provide various money services to customers and are common along the U.S./Mexican border.

(U) **Hawala** - an informal mechanism of transferring money offshore without the physical movement of currency. *Hawala* transactions are often conducted using telephones and code words.

(U) **Hawaladar** - the coordinator and manager of a *Hawala* business.

(U) **Informal value transfer systems** - mechanisms used to transfer funds from one location to another without the use of traditional or formal banking channels.

(U) **In rem** - against the property.

(U) **Interbank (correspondent account)** - accounts held by U.S. banks on behalf of foreign banks. Such accounts allow foreign banks to clear U.S. dollar transactions.

(U) **Integration** - the third stage of the money laundering process; the use of laundered proceeds to purchase products and services in mainstream commerce.

(U) **Layering** - the second stage of the money laundering process; the separation of illegal proceeds from their original sources by conducting a series of financial transactions.

(U) **Legat** - Legal attaché. A representative of the FBI in a foreign jurisdiction.

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(U) **Loan-back schemes** - schemes that involve illegal deposits at financial institutions where the criminal receives a "loan" from the bank, trust, corporation, or fiduciary. The loan is actually the criminal's own illegally derived money.

(U) **Monetary transaction** - the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument by, through, or to a financial institution, but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment to the Constitution.

(U) **Money laundering** - the process by which criminals conceal or disguise their illegally derived proceeds, typically for the purpose of promoting or facilitating future criminal activity, disguising the origin of the proceeds, evading taxes, or avoiding reporting requirements.

(U) **Money services businesses** - nonbank financial institutions that provide an array of financial services without the need for customer accounts. Such services include money transfers, check cashing, foreign currency exchange, and the issuance of money orders and traveler's checks.

(U) **Nexus** - a causal link.

(U) **One-off** - a one-time event.

(U) **Open system** - a type of stored value or prepaid card that does not limit use to a particular merchant or type of product or service. Such card types often have "reload" features and can be used to withdraw funds from ATMs worldwide.

(U) **Placement** - the first stage of the money laundering process; the initial use of illegally derived proceeds.

(U) **Predicate offenses** - Unlawful activities.

(U) **Prepaid debit card** - a card that is funded in advance, typically through a connection with a bank account, and can be used for the purchase of products and services, to withdraw funds at various locations via ATMs or to transfer funds to other card holders.

(U) **Sensitive circumstance** - circumstances that may exist in an undercover operation that would require Group I authority as per the Attorney General's Guidelines and the *Field Guide for Undercover and Sensitive Operations*.

(U) **Shell/Shelf company** - a company that exists only on paper and has no real operating business or physical location.

(U) **Smart cards** - prepaid cards that keep track of balances directly on the card through computer chips or other technology.

(U) **Smurf** - an individual recruited to assist in the money laundering process by conducting a series of structured financial transactions on behalf of the launderer, at one or more financial institutions, and in amounts below the \$10,000 reporting threshold.

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(U) **Smurfing** - the process of engaging in a series of structured financial transactions on behalf of a money launderer, at one or more financial institutions, and in amounts below the \$10,000 reporting threshold.

(U) **Specific unlawful activity** - specific criminal acts listed in the U.S. money laundering statutes as predicate offenses for which the crime of money laundering can be charged.

(U) **Sting** - an undercover operation.

(U) **Stored value cards** - cards that can be purchased and funded in advance of their use. Stored value cards come in many forms to include cards that store balances on the cards themselves and those linked to financial accounts.

(U) **Structuring** - financial transactions conducted below the BSA reporting threshold for the sole purpose of evading reporting requirements.

(U) **Title III** - the title of the Federal Criminal Code that sets forth the terms, conditions, and authorities for using "bugs" or other listening devices by law enforcement in criminal investigations.

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(U) Appendix G: Acronyms

ACS	Automated Case Support
AD	Assistant Director
ADIC	Assistant Director in Charge
AFMLS	Asset Forfeiture and Money Laundering Section
AG	Attorney General
AGG	Attorney General's Guidelines
AGGCG	Attorney General's General Crime Guidelines
AGG-Dom	<i>Attorney General's Guidelines for Domestic FBI Operations</i>
AGGET	<i>Attorney General's Guidelines for Extraterritorial FBI Operations and Criminal Investigations</i>
AML	Anti-Money Laundering
ASAC	Assistant Special Agent in Charge
AT&T	American Telephone and Telegraph
ATF	Bureau of Alcohol, Tobacco, Firearms, and Explosives
ATM	Automated Teller Machines
AUSA	Assistant United States Attorney
BSA	Bank Secrecy Act
BMPE	Black Market Peso Exchange
CDD	Customer Due Diligence
CE	Currency Exchangers
CI	Confidential Informant
CEB	Currency Exchange Brokers

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CID	Criminal Investigative Division
CMIR	Currency or Monetary Instrument Report
CPOT	Consolidated Priority Organization Targets
CTR	Currency Transactions Reports
CTRC	Currency Transactions Reports by Casino
CUORC	Criminal Undercover Operations Review Committee
CHS	Confidential Human Source
DEA	Drug Enforcement Administration
DEP	Designation of Exempt Person
DIOG	Domestic Investigations and Operations Guide
DOJ	Department of Justice
DTO	Designated Terrorist Organization
EC	Electronic Communication
EPA	Environmental Protection Agency
FATF	Financial Action Task Force
FBAR	Foreign Bank and Financial Accounts Report
FBI	Federal Bureau of Investigation
FBIHQ	Federal Bureau of Investigation Headquarters
FCS	Financial Crimes Section
FDIC	Federal Deposit Insurance Corporation
FGUSO	Field Guide for Undercover and Sensitive Operations
FinCEN	Financial Crimes Enforcement Network
FIU	Financial Intelligence Unit

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FTO	Foreign Terrorist Organizations
G/CEP	Gangs and Criminal Enterprise Program
ICE	Immigration and Customs Enforcement
IDW	Investigative Data Warehouse
IRS	Internal Revenue Service
ITAR	Interstate Transportation in Aid of Racketeering
IVTS	Informal Value Transfer Systems
LEA	Law Enforcement Agency
MAOP	Manual of Administrative Operations and Procedures
MIOG	Manual of Investigative Operations and Guidelines
ML	Money Laundering
MLAT	Mutual Legal Assistance Treaties
MOU	Memorandum of Understanding
MSB	Money Services Business
OC	Organized Crime
OFAC	Office of Foreign Assets Control
OIA	Office of International Affairs, DOJ
PDC	Prepaid Debit Cards
RICO	Racketeer Influenced and Corrupt Organizations
RMSB	Registration of Money Services Business
SA	Special Agent
SAC	Special Agent in Charge
SAR	Suspicious Activity Report

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SARC	Suspicious Activity Report by Casinos and Card Clubs
SARI	Suspicious Activity Report by Insurance Companies
SARM	Suspicious Activity Report by Money Services Businesses
SARSF	Suspicious Activity Report by the Security and Futures Industries
SOD	Special Operations Division
STR	Suspicious Transaction Report
SUA	Specified Unlawful Activity
SVC	Stored Value Cards
TFOS	Terrorist Financing Operations Section
U.S.	United States
UCE	Undercover Employee
UCO	Undercover Operation
USA	United States Attorney
USA PATRIOT Act	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act.
USAO	United States Attorney's Office
U.S.C.	United States Code
USCS	United States Customs Service
USOU	Undercover and Sensitive Operations Unit
USPER	United States Person; US Person; U.S. Person; USP; USPs; USPERs
USPS	United States Postal Service
USSS	United States Secret Service

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USUA	Unknown Specified Unlawful Activity
VCMO	Violent Crimes and Major Offenders
WCC	White Collar Crime
WebCBRS	Web Currency and Banking Retrieval System